EC–2523. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2120–AA64) received on April 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–2524. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2120–AA64) received on April 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–2525. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2115–AE46) received on April 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–2526. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2115–AE46) received on April 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–2527. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2115–AE47) received on April 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–2528. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2115–AE47) received on April 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–2529. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2115–AA97) received on April 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–2530. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2115–AE85) received on April 24, 1996; to the Committee on Commerce, Science, and Transportation.

EC–2531. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a package of thirteen final rules (RIN2120–AA64); to the Committee on Commerce, Science, and Transportation.

EC–2532. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2105–AC23); to the Committee on Commerce, Science, and Transportation.

EC–2533. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2105–AC41); to the Committee on Commerce, Science, and Transportation.

EC–2534. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2105–AC40); to the Committee on Commerce, Science, and Transportation.

EC–2535. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2105–AC39); to the Committee on Commerce, Science, and Transportation.

EC–2536. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2105–AC38); to the Committee on Commerce, Science, and Transportation.

EC–2537. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2105–AC42); to the Committee on Commerce, Science, and Transportation.

EC–2538. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2105–AC46); to the Committee on Commerce, Science, and Transportation.

EC–2539. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2105–AC34); to the Committee on Commerce, Science, and Transportation.

EC–2540. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2105–AF18); to the Committee on Commerce, Science, and Transportation.

EC–2541. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a final rule (RIN2105–AF16); to the Committee on Commerce, Science, and Transportation.

EC–2542. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, a report of final rules (RIN2120, RIN2115–AF30, RIN2115–AF31, RIN2115–AE46, RIN2115–AE47, RIN2120–AA63, RIN2120–AA64, RIN2120–AA65, RIN2120–AA66, RIN2120–AE87, RIN2115–AA97, RIN2115–AA98) (received April 26, 1996); to the Committee on Commerce, Science, and Transportation.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LUGAR (for himself and Mr. PELL) (by request):

S. 1732. A bill to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, known as ''the Chemical Weapons Convention'' and opened for signature and signed by the United States on January 13, 1993; to the Committee on Foreign Relations.

By Mr. HELMS (for himself, Mr. THURMOND, Mr. BROWN, Mr. GRASSLEY, Mr. LOTT, Mr. DEWINE, and Mr. FAIRCLOTH):

S. 1733. A bill to amend the Violent Crime Control and Law Enforcement Act of 1994 to provide enhanced penalties for crimes against elderly and child victims, and for other purposes; to the Committee on the Judiciary.

By Mr. SPECTER (for himself, Mr. LEVIN, Mr. STEVENS, Mr. NUNN, Mr. COHEN, Mr. INOUYE, Mr. JEFFORDS, Mr. LEAHY, and Mr. KOHL):

S. 1734. A bill to prohibit false statements to Congress, to clarify congressional authority to obtain truthful testimony, and for other purposes; to the Committee on the Judiciary.

By Mr. PRESSLER (for himself, Mr. BRYAN, Mr. WARNER, Mr. BURNS, Mr. STEVENS, Mr. HOLLINGS, Mr. INOUYE, Mr. FORD, Mr. KERRY, Mr. BREAUX, Mr. DORGAN, Mr. AKAKA, Mr. JOHNSTON, and Mr. COVERDELL):

S. 1735. A bill to establish the United States Tourism Organization as a nongovernmental entity for the purpose of promoting tourism in the United States; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENS:

S. 1736. A bill for the relief of Staff Sergeant Charles Raymond Stewart and Cynthia M. Stewart of Anchorage, Alaska, and their minor son, Jeff Christopher Stewart; to the Committee on the Judiciary.

By Mr. BUMPERS:

S. 1737. A bill to protect Yellowstone National Park, the Clarks Fork of the Yellowstone National Wild and Scenic River and the Absaroka-Beartooth Wilderness Area, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GRAMS:

S. 1738. A bill to provide for improved access to and use of the Boundary Water Canoe Area Wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DOLE (for himself, Mr. ROTH, Mr. GRAMM, Mr. GRASSLEY, Mr. SIMPSON, Mr. PRESSLER, Mr. NICKLES, Mr. BENNETT, Mr. BOND, Mr. FAIRCLOTH, Mr. GRAMS, Mr. GREGG, Mr. KEMPTHORNE, Mr. KYL, Mr. LOTT, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THURMOND, and Mr. WARNER):

S. 1739. A bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent increase in the transportation motor fuels excise tax rates enacted by the Omnibus Budget Reconciliation Act of 1993 and dedicated to the general fund of the Treasury; to the Committee on Finance.

By Mr. NICKLES (for himself and Mr. DOLE): S. 1740. A bill to define and protect the institution of marriage; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LUGAR (for himself and Mr. PELL) (by request):

S. 1732. A bill to implement the obligations of the United States under the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, known as ''the Chemical Weapons Convention'' and opened for signature and signed by the United States on January 13, 1993; to the Committee on Foreign Relations.

THE CHEMICAL WEAPONS CONVENTION IMPLEMENTATION ACT

Mr. LUGAR. Mr. President, on behalf of Senator PELL and myself, I rise to introduce, by request, the Chemical Weapons Convention Implementation Act.

The Chemical Weapons Convention was signed by the United States on January 13, 1993, and was submitted by President Clinton to the U.S. Senate on November 23, 1993, for its advice and consent to ratification.

The Chemical Weapons Convention has been the subject of numerous hearings by various committees and was reported out of the Committee on Foreign Relations last month. It is now awaiting action by the full Senate.

The Chemical Weapons Convention contains a number of provisions that require implementing legislation to give them effect within the United States. These include: international inspections of U.S. facilities; declarations by U.S. chemical and related industry; and establishment of a national

authority to serve as the liaison between the United States and the international organization established by the Chemical Weapons Convention and the States parties to the convention.

Mr. President, I ask unanimous consent that this Implementation Act that we are introducing at the request of the administration be printed in the RECORD, together with the transmittal letter to the President of the Senate from the Director of the U.S. Arms Control and Disarmament Agency, John D. Holum.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1732

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Chemical Weapons Convention Implementation Act of 1995.''

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows—

SEC. 3. CONGRESSIONAL FINDINGS.

The Congress makes the following findings—

(1) Chemical weapons pose a significant threat to the national security of the United States and are a scourge to humankind.

(2) The Chemical Weapons Convention is the best means of ensuring the nonproliferation of chemical weapons and their eventual destruction and forswearing by all nations.

(3) The verification procedures contained in the Chemical Weapons Convention and the faithful adherence of nations to them, including the United States, are crucial to the success of the Convention.

(4) The declarations and inspections required by the Chemical Weapons Convention are essential for the effectiveness of the verification regime.

SEC. 4. CONGRESSIONAL DECLARATIONS.

The Congress makes the following declarations—

(1) It shall be the policy of the United States to cooperate with other States Parties to the Chemical Weapons Convention and to afford the appropriate form of legal assistance to facilitate the implementation of the prohibitions contained in title II of this Act.

(2) It shall be the policy of the United States, during the implementation of its obligations under the Chemical Weapons Convention, to assign the highest priority to ensuring the safety of people and to protecting the environment, and to cooperate as appropriate with other States Parties to the Convention in this regard.

(3) It shall be the policy of the United States to minimize, to the greatest extend practicable, the administrative burden and intrusiveness of measures to implement the Chemical Weapons Convention placed on commercial and other private entities, and to take into account the possible competitive impact of regulatory measures on industry, consistent with the obligations of the United States under the Convention.

SEC. 5. DEFINITIONS.

(a) IN GENERAL.—Except as otherwise provided in this Act, the definitions of the terms used in this Act shall be those contained in the Chemical Weapons Convention. Nothing in paragraphs 2 or 3 of Article II of the Chemical Weapons Convention shall be construed to limit verification activities pursuant to Parts X or XI of the Annex on Implementation and Verification of the Convention.

(b) OTHER DEFINITIONS.—

(1) The term ''Chemical Weapons Convention'' means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993.

(2) The term ''national of the United States'' has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

(3) The term ''United States,'' when used in a geographical sense, includes all places under the jurisdiction or control of the United States, including (A) any of the places within the provisions of section 101(41) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. Sec. 1301(41)), (B) any public aircraft or civil aircraft of the United States, as such terms as defined in sections 101(36) and (18) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. Secs. 1301(36) and 1301(18)), and (C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C. App. Sec. 1903(b)).

(4) The term ''person,'' except as used in section 201 of this Act and as set forth below, means (A) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity located in the United States; and (B) any legal successor, representative, agent or agency of the foregoing located in the United States. The phrase ''located in the United States'' in the term ''person'' shall not apply to the term ''person'' as used in the phrases ''person located outside the territory'' in sections 203(b) and 302(d) of this Act and ''person located in the territory'' in section 203(b) of this Act.

(5) The term ''Technical Secretariat'' means the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons established by the Chemical Weapons Convention.

SEC. 6. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TITLE I—NATIONAL AUTHORITY

SEC. 101. ESTABLISHMENT.

Pursuant to paragraph 4 of Article VII of the Chemical Weapons Convention, the President or the designee of the President shall establish the ''United States National Authority'' to, *inter alia,* serve as the national focal point for effective liaison with the Organization for the Prohibition of Chemical Weapons and other States Parties to the Convention.

TITLE II—APPLICATION OF CONVENTION PROHIBITIONS TO NATURAL AND LEGAL PERSONS

SEC. 201. CRIMINAL PROVISIONS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by—

(1) redesignating chapter 11A relating to child support as chapter 11B; and

(2) inserting after chapter 11 relating to bribery, graft and conflicts of interest the following new chapter:

''CHAPTER 11A—CHEMICAL WEAPONS

''SEC. 227. PENALTIES AND PROHIBITIONS WITH RESPECT TO CHEMICAL WEAPONS.

''(a) IN GENERAL.—Except as provided in subsection (b), whoever knowingly develops, produces, otherwise acquires, stockpiles, retains, directly or indirectly transfers, uses, owns or possesses any chemical weapon, or knowingly assists, encourages or induces, in any way, any person to do so, or attempts or conspires to do so, shall be fined under this title or imprisoned for life or any term of years, or both.

''(b) EXCLUSION.—Subsection (a) shall not apply to the retention, ownership or possession of a chemical weapon, that is permitted by the Chemical Weapons Convention pending the weapon's destruction, by any agency or department of the United States. This exclusion shall apply to any person, including members of the Armed Forces of the United States, who is authorized by any agency or department of the United States to retain, own or possess a chemical weapon, unless that person knows or should have known that such retention, ownership or possession is not permitted by the Chemical Weapons Convention.

''(c) JURISDICTION.—There is jurisdiction by the United States over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and is committed by a national of the United States.

''(d) ADDITIONAL PENALTY.—The court shall order that any person convicted of any offense under this section pay to the United States any expenses incurred incident to the seizure, storage, handling, transportation and destruction or other disposition of property seized for the violation of this section.

''SEC. 227A. SEIZURE, FORFEITURE, AND DESTRUCTION.

''(a) SEIZURE.—

''(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the

seizure of any chemical weapon defined in section 227D(2)(A) of this title that is of a type or quantity that under the circumstances is inconsistent with the purposes not prohibited under the Chemical Weapons Convention.

''(2) In exigent circumstances, seizure and destruction of any such chemical weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.

''(b) PROCEDURE FOR FORFEITURE AND DESTRUCTION.—Except as provided in paragraph (2) of subsection (a), property seized pursuant to subsection (a) shall be forfeited to the United States after notice to potential claimants and an opportunity for a hearing. At such a hearing, the government shall bear the burden of persuasion by a preponderance of the evidence. Except as inconsistent herewith, the provisions of chapter 46 of this title relating to civil forfeitures shall extend to a seizure or forfeiture under this section. The Attorney General shall provide for the destruction or other appropriate disposition of any chemical weapon seized and forfeited pursuant to this section.

''(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense against a forfeiture under subsection (b) that—

''(1) such alleged chemical weapon is for a purpose not prohibited under the Chemical Weapons Convention; and

''(2) such alleged chemical weapon is of a type and quantity that under the circumstances is consistent with that purpose.

(d) OTHER SEIZURE, FORFEITURE, AND DESTRUCTION.—

''(1) Except as provided in paragraph (2), the Attorney General may request the issuance, in the same manner as provided for a search warrant, of a warrant authorizing the seizure of any chemical weapon defined in section 227D(2) (B) or (C) of this title that exists by reason of conduct prohibited under section 227 of this title.

''(2) In exigent circumstances, seizure and destruction of any such chemical weapon described in paragraph (1) may be made by the Attorney General upon probable cause without the necessity for a warrant.

''(3) Property seized pursuant to this subsection shall be summarily forfeited to the United States and destroyed.

''(e) ASSISTANCE.—The Attorney General may request assistance from any agency or department in the handling, storage, transportation or destruction of property seized under this section.

''(f) OWNER LIABILITY.—The owner or possessor of any property seized under this section shall be liable to the United States for any expenses incurred incident to the seizure, including any expenses relating to the handling, storage, transportation and destruction or other disposition of the seized property.

''SEC. 227B. INJUNCTIONS.

''(a) IN GENERAL.—The United States may obtain in a civil action an injunction against—

''(1) the conduct prohibited under section 227 of this title;

''(2) the preparation or solicitation to engage in conduct prohibited under section 227 of this title; or

''(3) the development, production, other acquisition, stockpiling, retention, direct or indirect transfer, use, ownership or possession, or the attempted development, production, other acquisition, stockpiling, retention, direct or indirect transfer, use, ownership or possession, of any alleged chemical weapon defined in section 227D(2)(A) of this title that is of a type or quantity that under the circumstances is inconsistent with the purposes not prohibited under the Chemical Weapons Convention, or the assistance to any person to do so.

''(b) AFFIRMATIVE DEFENSE.—It is an affirmative defense against an injunction under subsection (a)(3) that—

''(1) the conduct sought to be enjoined is for a purpose not prohibited under the Chemical Weapons Convention; and

''(2) such alleged chemical weapon is of a type and quantity that under the circumstances is consistent with that purpose.

''SEC. 227C. OTHER PROHIBITIONS.

''(a) IN GENERAL.—Except as provided in subsection (b), whoever knowingly uses riot control agents as a method of warfare, or knowingly assists any person to do so, shall be fined under this title or imprisoned for a term of not more than ten years, or both.

''(b) EXCLUSION.—Subsection (a) shall not apply to members of the Armed Forces of the United States. Members of the Armed Forces of the United States who use riot control agents as a method of warfare shall be subject to appropriate military penalties.

''(c) JURISDICTION.—There is jurisdiction by the United States over the prohibited activity in subsection (a) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and is committed by a national of the United States.

''SEC. 227D. DEFINITIONS.

''As used in this chapter, the term—

''(1) 'Chemical Weapons Convention' means the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, opened for signature on January 13, 1993;

''(2) 'chemical weapon' means the following, together or separately:

''(A) a toxic chemical and its precursors, except where intended for a purpose not prohibited under the Chemical Weapons Convention, as long as the type and quantity is consistent with such a purpose;

''(B) a munition or device, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (A), which would be released as a result of the employment of such munition or device; or

''(C) any equipment specifically designed for use directly in connection with the employment of munitions or devices specified in subparagraph (B);

''(3) 'toxic chemical' means any chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere. (For the purpose of implementing the Chemical Weapons Convention, toxic chemicals which have been identified for the application of verification measures are listed in Schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.);

''(4) 'precursor' means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multicomponent chemical system. (For the purpose of implementing the Chemical Weapons Convention, precursors which have been identified for the application of verification measures are listed in Schedules contained in the Annex on Chemicals of the Chemical Weapons Convention.);

''(5) 'key component of a binary or multicomponent chemical system' means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system;

''(6) 'purpose not prohibited under the Chemical Weapons Convention' means—

''(A) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;

''(B) protective purposes; namely, those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;

''(C) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare; or

''(D) law enforcement purposes, including domestic riot control purposes;

''(7) 'national of the United States' has the same meaning given such term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

''(8) 'United States,' when used in a geographical sense, includes all places under the jurisdiction or control of the United States, including (A) any of the places within the provisions of section 101(41) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. Sec. 1301(41)), (B) any public aircraft or civil aircraft of the United States, as such terms are defined in sections 101(36) and (18) of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. Secs. 1301(36) and 1301(18)), and (C) any vessel of the United States, as such term is defined in section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C. App. Sec. 1903(b));

''(9) 'person' means (A) any individual, corporation, partnership, firm, association, trust, estate, public or private institution, any State or any political subdivision thereof, or any political entity within a State, any foreign government or nation or any agency, instrumentality or political subdivision of any such government or nation, or other entity; and (B) any legal successor, representative, agent or agency of the foregoing; and

''(10) 'riot control agent' means any chemical not listed in a Schedule in the Annex on Chemicals of the Chemical Weapons Convention, which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure.

''Nothing in paragraphs (3) or (4) of this section shall be construed to limit verification activities pursuant to Part X or Part XI of the Annex on Implementation and Verification of the Chemical Weapons Conventions.''

(b) CLERICAL AMENDMENTS.—The table of chapters for part I of title 18, United States Code, is amended by—

(1) in the item for chapter 11A relating to child support, redesignating ''11A'' as ''11B''; and

(2) inserting after the item for chapter 11 of the following new item:

''11A. Chemical weapons ..... 227.''

SEC. 202. EFFECTIVE DATE.

This title shall take effect on the date the Chemical Weapons Convention enters into force for the United States.

SEC. 203. RESTRICTIONS ON SCHEDULED CHEMICALS.

(a) SCHEDULE 1 ACTIVITIES.—It shall be unlawful for any person, or any national of the United States located outside the United States, to produce, acquire, retain, transfer or use a chemical listed on Schedule 1 of the Annex on Chemicals of the Chemical Weapons Convention, unless—

(1) the chemicals are applied to research, medical, pharmaceutical or protective purposes;

(2) the types and quantities of chemicals are strictly limited to those that can be justified for such purposes; and

(3) the amount of such chemicals per person at any given time for such purposes does not exceed a limit to be determined by the United States National Authority, but in any case, does not exceed one metric ton.

(b) EXTRATERRITORIAL ACTS.—

(1) It shall be unlawful for any person, or any national of the United States located outside the United States, to produce, acquire, retain, or use a chemical listed on Schedule 1 of the Annex on Chemicals of the Chemical Weapons Convention outside the territories of the States Parties to the Convention or to transfer such chemicals to any person located outside the territory of the United States, except as provided for in the Convention for transfer to a person located in the territory of another State Party to the Convention.

(2) Beginning three years after the entry into force of the Chemical Weapons Convention, it shall be unlawful for any person, or any national of the United States located outside the United States, to transfer a chemical listed on Schedule 2 of the Annex on Chemicals of the Convention to any person located outside the territory of a State Party to the Convention or to receive such a chemical from any person located outside the territory of a State Party to the Convention.

(c) JURISDICTION.—There is jurisdiction by the United States over the prohibited activity in subsections (a) and (b) if (1) the prohibited activity takes place in the United States or (2) the prohibited activity takes place outside of the United States and is committed by a national of the United States.

TITLE III—REPORTING

SEC. 301. REPORTING OF INFORMATION.

(a) REPORTS.—The Department of Commerce shall promulgate regulations under which each person who produces, processes, consumes, exports or imports, or proposes to produce, process, consume, export or import, a chemical substance subject to the Chemical Weapons Convention shall maintain and permit access to such records and shall submit to the Department of Commerce such reports as the United States National Authority may reasonably require pursuant to the Chemical Weapons Convention. The Department of Commerce shall promulgate regulations pursuant to this title expeditiously, taking into account the written decisions issued by the Organization for the Prohibition of Chemical Weapons, and may amend or change such regulations as necessary.

(b) COORDINATION.—To the extent feasible, the United States National Authority shall not require any reporting that is unnecessary, or duplicative of reporting required under any other Act. Agencies and departments shall coordinate their actions with other agencies and departments to avoid duplication of reporting by the affected persons under this Act or any other Act.

SEC. 302. CONFIDENTIALITY OF INFORMATION.

(a) FREEDOM OF INFORMATION ACT EXEMPTION FOR CERTAIN CHEMICAL WEAPONS CONVENTION INFORMATION.—Any information reported to, or otherwise obtained by, the United States National Authority, the Department of Commerce, or any other agency or department under this Act or under the Chemical Weapons Convention shall not be required to be publicly disclosed pursuant to section 552 of Title 5, United States Code.

(b) PROHIBITED DISCLOSURE AND EXCEPTIONS.—Information exempt from disclosure under subsection (a) shall not be published or disclosed, except that such information—

(1) shall be disclosed or otherwise provided to the Technical Secretariat or other States Parties to the Chemical Weapons Convention in accordance with the Convention, in particular, the provisions of the Annex on the Protection of Confidential Information;

(2) shall be made available to any committee or subcommittee of Congress of appropriate jurisdiction upon the written request of the chairman or ranking minority member of such committee or subcommittee, except that no such committee or subcommittee, or member thereof, shall disclose such information or material;

(3) shall be disclosed to other agencies or departments for law enforcement purposes with regard to this Act or any other Act, and may be disclosed or otherwise provided when relevant in any proceeding under this Act or any other Act, except that disclosure or provision in such a proceeding shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding; and

(4) may be disclosed, including in the form of categories of information, if the United States National Authority determines that such disclosure is in the national interest.

(c) NOTICE OF DISCLOSURE.—If the United States National Authority, pursuant to subsection (b)(4), proposes to publish or disclose or otherwise provide information exempted from disclosure in subsection (a), the United States National Authority shall, where appropriate, notify the person who submitted such information of the intent to release such information. Where notice has been provided, the United States National Authority may not release such information until the expiration of 30 days after notice has been provided.

(d) CRIMINAL PENALTY FOR WRONGFUL DISCLOSURE.—Any officer or employee of the United States or former officer or employee of the United States, who by virtue of such employment or official position has obtained possession of, or has access to, information the disclosure or other provision of which is prohibited by subsection (a), and who knowing that disclosure or provision of such information is prohibited by such subsection, willfully discloses or otherwise provides the information in any manner to any person, including persons located outside the territory of the United States, not entitled to receive it, shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.

(e) INTERNATIONAL INSPECTORS.—The provisions of this section on disclosure or provision of information shall also apply to employees of the Technical Secretariat.

SEC. 303. PROHIBITED ACTS.

It shall be unlawful for any person to fail or refuse to (a) establish or maintain records, (b) submit reports, notices, or other information to the Department of Commerce or the United States National Authority, or (c) permit access to or copying of records, as required by this Act or a regulation thereunder.

TITLE IV—INSPECTIONS

SEC. 401. INSPECTIONS PURSUANT TO ARTICLE VI OF THE CHEMICAL WEAPONS CONVENTION.

(a) AUTHORITY.—For purposes of administering this Act—

(1) any duly designated member of an inspection team of the Technical Secretariat may inspect any plant, plant site, or other facility or location in the United States subject to inspection pursuant to the Chemical Weapons Convention; and

(2) the National Authority shall designate representatives who may accompany members of an inspection team of the Technical Secretariat during the inspection specified in paragraph (1). The number of duly designated representatives shall be kept to the minimum necessary.

(b) NOTICE.—An inspection pursuant to subsection (a) may be made only upon issuance of a written notice to the owner and to the operator, occupant or agent in charge of the premises to be inspected, except that failure to receive a notice shall not be a bar to the conduct of an inspection. The notice shall be submitted to the owner and to the operator, occupant or agent in charge as soon as possible after the United States National Authority receives it from the Technical Secretariat. The notice shall include all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought, including, for challenge inspections pursuant to Article IX of the Chemical Weapons Convention, appropriate evidence or reasons provided by the requesting State Party to the Convention with regard to its concerns about compliance with the Chemical Weapons Convention at the facility or location. A separate notice shall be given for each such inspection, but a notice shall not be required for each entry made during the period covered by the inspection.

(c) CREDENTIALS.—If the owner, operator, occupant or agent in charge of the premises to be inspected is present, a member of the inspection team of the Technical Secretariat, as well as, if present, the representatives of agencies or departments, shall present appropriate credentials before the inspection is commenced.

(d) TIMEFRAME FOR INSPECTIONS.—Consistent with the provisions of the Chemical Weapons Convention, each inspection shall be commenced and completed with reasonable promptness and shall be conducted at reasonable times, within reasonable limits, and in a reasonable manner. The Department of Commerce shall endeavor to ensure that, to the extent possible, each inspection is commenced, conducted and concluded during ordinary working hours, but no inspection shall be prohibited or otherwise disrupted for commencing, continuing or concluding during other hours. However, nothing in this subsection shall be interpreted as modifying the time frame established in the Chemical Weapons Convention.

(e) SCOPE.—

(1) Except as provided in paragraph (2) of this subsection and subsection (f), an inspection conducted under this title may extend to all things within the premises inspected (including records, files, papers, processes, controls, structures and vehicles) related to whether the requirements of the Chemical Weapons Convention applicable to such premises have been complied with.

(2) To the extent possible consistent with the obligations of the United States pursuant to the Chemical Weapons Convention, no inspection under this title shall extend to—

(A) financial data;

(B) sales and marketing data (other than shipment data);

(C) pricing data;

(D) personnel data;

(E) research data;

(F) patent data;

(G) data maintained for compliance with environmental or occupational health and safety regulations; or

(H) personnel and vehicles entering and personnel and personal passenger vehicles exiting the facility.

(f) FACILITY AGREEMENTS.—

(1) Inspections of plants, plant sites, or other facilities or locations for which the United States has a facility agreement with the Organization for the Prohibition of Chemical Weapons shall be conducted in accordance with the facility agreement.

(2) Facility agreements shall be concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraph 4 of Article VI of the

Chemical Weapons Convention unless the owner and the operator, occupant or agent in charge of the facility and the Technical Secretariat agree that such an agreement is not necessary. Facility agreements should be concluded for plants, plant sites, or other facilities or locations that are subject to inspection pursuant to paragraphs 5 or 6 of Article VI of the Chemical Weapons Convention if so requested by the owner and the operator, occupant or agent in charge of the facility.

(3) The owner and the operator, occupant or agent in charge of a facility shall be notified prior to the development of the agreement relating to that facility and, if they so request, may participate in the preparations for the negotiation of such an agreement. To the extent practicable consistent with the Chemical Weapons Convention, the owner and the operator, occupant or agent in charge of a facility may observe negotiations of the agreement between the United States and the Organization for the Prohibition of Chemical Weapons concerning that facility.

(g) SAMPLING AND SAFETY.—

(1) The Department of Commerce is authorized to require the provision of samples to a member of the inspection team of the Technical Secretariat in accordance with the provisions of the Chemical Weapons Convention. The owner or the operator, occupant or agent in charge of the premises to be inspected shall determine whether the sample shall be taken by representatives of the premises on the inspection team or other individuals present.

(2) In carrying out their activities, members of the inspection team of the Technical Secretariat and representatives of agencies or departments accompanying the inspection team shall observe safety regulations established at the premises to be inspected, including those for protection of controlled environments within a facility and for personal safety.

(h) COORDINATION.—To the extent possible consistent with the obligations of the United States pursuant to the Chemical Weapons Convention, the representatives of the United States National Authority, the Department of Commerce and any other agency or department, if present, shall assist the owner and the operator, occupant or agent in charge of the premises to be inspected in interacting with the members of the inspection team of the Technical Secretariat.

SEC. 402. OTHER INSPECTIONS PURSUANT TO THE CHEMICAL WEAPONS CONVENTION AND LEAD AGENCY.

(a) OTHER INSPECTIONS.—The provisions of this title shall apply, as appropriate, to all other inspections authorized by the Chemical Weapons Convention. For all inspections other than those conducted pursuant to paragraphs 4, 5 or 6 of Article VI of the Convention, the term ''Department of Commerce'' shall be replaced by the term ''Lead Agency'' in section 401.

(b) LEAD AGENCY.—For the purposes of this title, the term ''Lead Agency'' means the agency or department designated by the President or the designee of the President to exercise the functions and powers set forth in the specific provision, based, *inter alia*, on the particular responsibilities of the agency or department within the United States Government and the relationship of the agency or department to the premises to be inspected.

SEC. 403. PROHIBITED ACTS.

It shall be unlawful for any person to fail or refuse to permit entry or inspection, or to disrupt, delay or otherwise impede an inspection as required by this Act or the Chemical Weapons Convention.

SEC. 404. PENALTIES.

(a) CIVIL.—

(1)(A) Any person who violates a provision of section 203 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $50,000 for each such violation.

(B) Any person who violates a provision of section 303 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $5,000 for each such violation.

(C) Any person who violates a provision of section 403 of this Act shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. For purposes of this subsection, each day such a violation of section 403 continues shall constitute a separate violation of section 403.

(2)(A) A civil penalty for a violation of section 203, 303 or 403 of this Act shall be assessed by the Lead Agency by an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Lead Agency shall give written notice to the person to be assessed a civil penalty under such order of the Lead Agency's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

(B) In determining the amount of a civil penalty, the Lead Agency shall take into account the nature, circumstances, extent and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, the existence of an internal compliance program, and such other matters as justice may require.

(C) The Lead Agency may compromise, modify or remit, with or without conditions, and civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

(3) Any person who requested in accordance with paragraph (2)(A) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may be filed only within the 30-day period beginning on the date the order making such assessment was issued.

(4) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (3); or

(B) after a court in an action brought under paragraph (3) has entered a final judgment in favor of the Lead Agency;

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (3) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount and appropriateness of such penalty shall not be subject to review.

(b) CRIMINAL.—Any person who knowingly violates any provision of section 203, 303 or 403 of this Act, shall, in addition to or in lieu of any civil penalty which may be imposed under subsection (a) for such violation, be fined under title 18, United States Code, imprisoned for not more than two years, or both.

SEC. 405. SPECIFIC ENFORCEMENT.

(a) JURISDICTION.—The district courts of the United States shall have jurisdiction over civil actions to—

(1) restrain any violation of section 203, 303 or 403 of this Act; and

(2) compel the taking of any action required by or under this Act or the Chemical Weapons Convention.

(b) CIVIL ACTIONS.—A civil action described in subsection (a) may be brought—

(1) in the case of a civil action described in subsection (a)(1), in the United States district court for the judicial district wherein any act, omission, or transaction constituting a violation of section 203, 303 or 403 of this Act occurred or wherein the defendant is found or transacts business; or

(2) in the case of a civil action described in subsection (a)(2), in the United States district court for the judicial district wherein the defendant is found or transacts business.

In any such civil action process may be served on a defendant wherever the defendant may reside or may be found, whether the defendant resides or may be found within the United States or elsewhere.

SEC. 406. LEGAL PROCEEDINGS.

(a) WARRANTS.—

(1) The Lead Agency shall seek the consent of the owner or the operator, occupant or agent in charge of the premises to be inspected prior to the initiation of any inspection. Before or after seeking such consent, the Lead Agency may seek a search warrant from any official authorized to issue search warrants. Proceedings regarding the issuance of a search warrant shall be conducted *ex parte*, unless otherwise requested by the Lead Agency. The Lead Agency shall provide to the official authorized to issue search warrants all appropriate information supplied by the Technical Secretariat to the United States National Authority regarding the basis for the selection of the plant site, plant, or other facility or location for the type of inspection sought, including, for challenge inspections pursuant to Article IX of the Chemical Weapons Convention, appropriate evidence or reasons provided by the requesting State Party to the Convention with regard to its concerns about compliance with the Chemical Weapons Convention at the facility or location. The Lead Agency shall also provide any other appropriate information available to it relating to the reasonableness of the selection of the plant, plant site, or other facility or location for the inspection.

(2) The official authorized to issue search warrants shall promptly issue a warrant authorizing the requested inspection upon an affidavit submitted by the Lead Agency showing that—

(A) the Chemical Weapons Convention is in force for the United States;

(B) the plant site, plant, or other facility or location sought to be inspected is subject to the specific type of inspection requested under the Chemical Weapons Convention;

(C) the procedures established under the Chemical Weapons Convention and this Act for initiating an inspection have been complied with; and

(D) the Lead Agency will ensure that the inspection is conducted in a reasonable manner and will not exceed the scope or duration set forth in or authorized by the Chemical Weapons Convention or this Act.

(3) The warrant shall specify the type of inspection authorized; the purpose of the inspection; the type of plant site, plant, or other facility or location to be inspected; to

the extent possible, the items, documents and areas that may be inspected; the earliest commencement and latest concluding dates and times of the inspection; and the identities of the representatives of the Technical Secretariat, if known, and, if applicable, the representatives of agencies or departments.

(b) SUBPOENAS.—In carrying out this Act, the Lead Agency may by subpoena require the attendance and testimony of witnesses and the production of reports, papers, documents, answers to questions and other information that the Lead Agency deems necessary. Witnesses shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. In the event of contumacy, failure or refusal of any person to obey any such subpoena, any district court of the United States in which venue is proper shall have jurisdiction to order any such person to comply with such subpoena. Any failure to obey such an order of the court is punishable by the court as a contempt thereof.

(c) INJUNCTIONS AND OTHER ORDERS.—No court shall issue an injunction or other order that would limit the ability of the Technical Secretariat to conduct, or the United States National Authority or the Lead Agency to facilitate, inspections as required or authorized by the Chemical Weapons Convention.

SEC. 407. AUTHORITY.

(a) REGULATIONS.—The Lead Agency may issue such regulations as are necessary to implement and enforce this title and the provisions of the Chemical Weapons Convention, and amend or revise them as necessary.

(b) ENFORCEMENT.—The Lead Agency may designate officers or employees of the agency or department to conduct investigations pursuant to this Act. In conducting such investigations, those officers or employees may, to the extent necessary or appropriate for the enforcement of this Act, or for the imposition of any penalty or liability arising under this Act, exercise such authorities as are conferred upon them by other laws of the United States.

SEC. 408. SAVING PROVISION.

The purpose of this Act is to enable the United States to comply with its obligations under the Chemical Weapons Convention. Accordingly, in addition to the authorities set forth in this Act, the President is authorized to issue such executive orders, directives or regulations as are necessary to fulfill the obligations of the United States under the Chemical Weapons Convention, provided such executive orders, directives or regulations do not exceed the requirements specified in the Chemical Weapons Convention.

U.S. ARMS CONTROL AND
DISARMAMENT AGENCY,
Washington, DC, May 25, 1993.

Hon. ALBERT GORE, Jr.,
President, U.S. Senate.

DEAR MR. PRESIDENT: On behalf of the Administration, I hereby submit for consideration the ''Chemical Weapons Convention Implementation Act of 1995.'' The Chemical Weapons Convention (CWC) was signed by the United States in Paris on January 13, 1993, and was submitted by President Clinton to the United States Senate on November 23, 1993, for its advice and consent to ratification. The CWC prohibits, inter alia, the use, development, production, acquisition, stockpiling, retention, and direct or indirect transfer of chemical weapons.

The President has urged the Senate to provide its advice and consent to ratification as early as possible so that the United States can continue to exercise its leadership role in seeking the earliest possible entry into force of the Convention. The recent chemical attacks in Japan underscore the importance of early ratification of the CWC and approval of this legislation.

The CWC contains a number of provisions that require implementing legislation to give them effect within the United States. These include:

International inspections of U.S. facilities;

Declarations by U.S. chemical and related industry; and

Establishment of a ''National Authority'' to serve as the liaison between the United States and the international organization established by the CWC and States Parties to the Convention.

In addition, the CWC requires the United States to prohibit all individuals and legal entities, such as corporations, within the United States, as well as all individuals outside the United States possessing U.S. citizenship, from engaging in activities that are prohibited under the Convention. As part of this obligation, the CWC requires the United States to enact ''penal'' legislation implementing this prohibition (i.e., legislation that penalizes conduct, either by criminal, administrative, military or other sanctions.)

The proposed ''Chemical Weapons Convention Act of 1995'' reflects views expressed from representatives of industry as well as from staff of various committees.

Expeditious enactment of implementing legislation is very important to the ability of the United States to fulfill its treaty obligations under the Convention. Enactment will enable the United States to collect the required information from industry and to allow the inspections called for in the Convention. It will also enable the United States to outlaw all activities related to chemical weapons, except CWC permitted activities, such as chemical defense programs. This will help fight chemical terrorism by penalizing not just the use, but also the development, production and transfer of chemical weapons. Thus, the enactment of legislation by the United States and other CWC States Parties will make it much easier for law enforcement officials to investigate and punish chemical terrorists early, before chemical weapons are used.

The Omnibus Budget and Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase to the deficit; and if it does, it could trigger a sequester if not fully offset. This proposal would increase receipts by less than $500,000 a year.

As the President indicated in his transmittal letter of the Convention: ''The CWC is in the best interests of the United States. Its provisions will significantly strengthen United States, allied and international security, and enhance global and regional stability.'' Therefore, I urge the Congress to enact the necessary implementing legislation as soon as possible after the Senate has given its advice and consent to ratification.

The Office of Management and Budget advises that there is no objection to the submission of this proposal and its enactment is in accord with the President's program.

Sincerely,

JOHN D. HOLUM.

By Mr. HELMS (for himself, Mr. THURMOND, Mr. BROWN, Mr. GRASSLEY, Mr. LOTT, Mr. DEWINE, and Mr. FAIRCLOTH):

S. 1733. A bill to amend the Violent Crime Control and Law Enforcement Act of 1994 to provide enhanced penalties for crimes against elderly and child victims, and for other purposes; to the Committee on the Judiciary.

THE CRIMES AGAINST CHILDREN AND ELDERLY PERSONS INCREASED PUNISHMENT ACT

Mr. HELMS. Mr. President, it's difficult to imagine an act more cowardly or reprehensible than a violent criminal act against a child, or an elderly person, or someone who is mentally or physically handicapped. But this dastardly criminality is becoming more and more common is society as a part of the general moral decay which is so painfully apparent in our cities and towns. Therefore, I am introducing a bill to strengthen the penalty for criminals who commit violent Federal crimes against children, the elderly, and those vulnerable due to mental or physical conditions.

Crimes against the vulnerable are soaring. For instance, according to the Bureau of Justice Statistics, personal crimes against the elderly increased by 90 percent between 1985 and 1991—from 627,318 in 1985 to 1,146,929 in 1991. Likewise, the homicide rate for children skyrocketed 47 percent between 1985 and 1993.

These are real victims, Mr. President, not just statistics. Just last month in Durham, NC, two mentally handicapped women were robbed at knife point. Earlier this year in Durham, a disabled Vietnam veteran—partially blind and with limited use of his legs—was robbed after exiting a Greyhound bus. And in my hometown of Raleigh, I recall the reports of a blind, 77-year-old lady who in 1993 was raped in her backyard.

These types of crimes are sick, outrageous, and revolting. Something must be done to make clear that this kind of depravity will be severely punished in the Federal system.

The Federal law must reflect our extreme repulsion against those who would victimize people who cannot defend themselves. This bill stiffens the punishment, by an average of 50 percent, for criminals who prey on the vulnerable in our society by committing violent crimes—including carjacking, assault, rape, and robbery. More specifically, this bill directs the U.S. Sentencing Commission to increase sentences by five levels above the offense level otherwise provided if a Federal violent crime is committed against a child, an elderly person or other vulnerable victim. By vulnerable I mean one whose physical or mental condition makes him susceptible to victimization by the thugs who commit these sorts of crimes.

This bill increases most of these sentences by about 50 percent. For example, a conviction of robbery against a senior or a child currently carries with it a base-offense level of 20, which translates into 2½ to 3½ years in prison. This bill raises the base-offense level to 25, jacking up the prison sentence for robbery to 4½ to 6 years.

Incidentally, Mr. President, a substantially similar bill, introduced by Representative DICK CHRYSLER of Michigan, was passed 414 to 4 last night in the House of Representatives. The

American people are demanding that these loathsome cries against the vulnerable in our society receive the punishment they deserve. This bill moves us in the right direction, and I urge my colleagues in the Senate to move with dispatch to enact this bill.

By Mr. SPECTER (for himself, Mr. LEVIN, Mr. STEVENS, Mr. NUNN, Mr. COHEN, Mr. INOUYE, Mr. JEFFORDS, Mr. LEAHY, and Mr. KOHL):

S. 1734. A bill to prohibit false statements to Congress, to clarify congressional authority to obtain truthful testimony, and for other purposes; to the Committee on the Judiciary.

THE FALSE STATEMENTS PENALTY RESTORATION ACT

Mr. SPECTER. Mr. President, last year the Supreme Court overturned 40 years of statutory interpretation and held that the statute that prohibits making false statements to agencies of the Federal Government only prohibits false statements made to agencies of the executive branch.

There is no reason why Congress should receive less protection than the executive. The cardinal principle at stake is that in dealing with the Government, any agency of the Government, people must, in the words of Justice Holmes, ''cut square corners,'' just as the Government must cut square corners in dealing with its citizens. One who lies to an entity of Government, be it an agency of the executive or a subcommittee of Congress, is under a justifiable expectation that if he or she lies, he or she will be punished.

This is not a difficult issue. For 40 years, Congress received the same protection as the executive. Anyone who lied knowingly and wilfully in a material way to either an executive agency or a component of Congress was subject to prosecution. In its Hubbard decision of last year, the Supreme Court took that protection away from Congress.

Let me offer some examples of the types of lies that can now knowingly be made without fear of criminal sanction. Recently Congress enacted lobbying disclosure. Lobbyists must make more thorough disclosures in filings with Congress. Knowing and material misstatements in these disclosure forms are no longer a basis for criminal prosecution. Many of us asks the General Accounting Office to investigate the operations of executive branch agencies. An employee of an agency being investigated by the GAO can now knowingly lie to a GAO investigator, or indeed a Senator, without having to fear criminal prosecution. Of course, if instead of the GAO the review was being conducted by an agency inspector general, then section 1001 would apply. This distinction cannot be justified.

Congress relies on accurate information to legislate, to oversee, to direct public policy. Unless the information coming to us is accurate, we are unable to fulfill our constitutional functions. This issue is a simple one. When someone provides information to Congress, its members, committees, or offices, that person should not knowingly provide untruthful information. So simple is this principle that I first offered legislation to overturn the Hubbard decision a week after it was decided. Since introduction of my bill, S. 830, I have been working with Senator LEVIN on the language of amended section 1001 and on some other ancillary matters.

The bill Senator LEVIN and I are introducing today will amend section 1001 to restore coverage for misstatements made to both Congress and the Federal judiciary, although it will codify the judiciary created exception to the pre-Hubbard section 1001 to exempt from its coverage statements made to a court performing an adjudicative function. The rational for this exception is that our adversary system relies on unfettered argument and the chilling effect from applying section 1001 to statements to a court adjudicating a case could be significant. In addition, cross-examination and argument from the other side is adequate to reveal misstatements in the judicial context.

No similar legislative-function exemption is proposed for statements made to Congress, and none is needed. Congress does not rely on cross-examination to get at the truth. Instead, we must rely on the truthfulness of statements made to us in the course of the performance of our official duties.

In addition to restoring section 1001 liability for misstatements made to Congress and the courts, this bill would restore force to the prohibition against obstructing congressional proceedings by narrowing the meaning of the provision. This amendment is needed to respond to a decision of the U.S. Court of Appeals for the District of Columbia Circuit which found the current statute too vague to be enforceable.

The bill also clarifies when officials of executive branch agencies can assert a privilege and decline to respond to inquiries from Congress. The bill requires that an employee of an executive agency would have to demonstrate that the head of the agency directed that the privilege be asserted. This will ensure that the assertion of the privilege is reviewed at the highest levels of the agency by someone accountable to the President and ultimately the people. It will also ensure that any privileges that are asserted are governmental privileges and not personal ones.

Finally, the bill would make a minor technical amendment to the statute allowing Congress to seek to take immunized testimony from witnesses by clarifying that the testimony can be taken either at proceedings before a committee or subcommittee or any proceeding ancillary to such proceedings, such as depositions.

Mr. President, I believe this is an important bill that will restore to the law of the land the principle that one cannot knowingly and wilfully lie about a material matter to Congress. I hope my colleagues will support this principle by supporting the bill, which I hope we can enact this year.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1734

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''False Statements Penalty Restoration Act''.

SEC. 2. RESTORING FALSE STATEMENTS PROHIBITION.

Secion 1001 of title 18, United States Code, is amended to read as follows:

''§1001. Statements or entries generally

''(a) PROHIBITED CONDUCT.—

''(1) IN GENERAL.—A person shall be punished under subsection (b) if, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the United States Government, or any department, agency, committee, subcommittee, or office thereof, that person knowingly and willfully—

''(A) falsifies, conceals, or covers up, by any trick, scheme, or device, a material fact;

''(B) makes any materially false, fictitious, or fraudulent statement or representation; or

''(C) makes or uses any false writing or document, knowing that the document contains any materially false, fictitious, or fraudulent statement or entry.

''(2) APPLICABILITY.—This section shall not apply to statements, representations, writings, or documents submitted to a court in connection with the performance of an adjudicative function.

''(b) PENALTIES.—A person who violates this section shall be fined under this title, imprisoned for not more than 5 years, or both.''

SEC. 3. CLARIFYING PROHIBITION ON OBSTRUCTING CONGRESS.

Section 1515 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

''(b) As used in section 1505, the term 'corruptly' means acting with an improper purpose, personally or by influencing another, including, but not limited to, making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information.''.

SEC. 4. ENFORCING SENATE SUBPOENA.

Section 1365(a) of title 28, United States Code, is amended in the second sentence, by striking ''Federal Government acting within his official capacity'' and inserting ''Executive Branch of the Federal Government acting within his or her official capacity, if the head of the department or agency employing the officer or employee has directed the officer or employee not to comply with the subpena or order and identified the Executive Branch privilege or objection underlying such direction''.

SEC. 5. COMPELLING TRUTHFUL TESTIMONY FROM IMMUNIZED WITNESS.

Section 6005 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting ''or ancillary to'' after ''any proceeding before''; and

(2) in subsection (b)—

(A) in paragraph (1) and (2), by inserting ''or ancillary to'' after ''a proceeding before'' each place it appears; and

(B) in paragraph (3), by inserting a period at the end.

● Mr. LEVIN. Mr. President, I am pleased to join with Senator SPECTER in sponsoring the False Statements Penalty Restoration Act.

Right now, it is a crime to make a false statement to the executive branch, if the false statement is made knowingly and willfully and is material in nature. This prohibition is contained in the Federal criminal code at 18 U.S.C. 1001.

Forty years ago, in 1955, the Supreme Court interpreted section 1001 to prohibit willful, material false statements not only to the executive branch, but also to the judicial and legislative branches. For 40 years, that was the law of the land, and it served this country well. But a recent Supreme Court decision has now drastically diminished the scope of this prohibition.

Last year, in a case called United States versus Hubbard, the Supreme Court reversed itself and 40 years of precedent and determined that 18 U.S.C. 1001 prohibits willful material false statements only to the executive branch, not to the judicial or legislative branch. It based its decision on the wording of the statute which doesn't explicitly reference either the courts or Congress.

The result has been the dismissal of indictments charging individuals with making willful, material false statements on expense reports or financial disclosure forms to Congress and the courts. Another consequence has been the exemption of all financial disclosure statements filed by judges and Members of Congress from criminal enforcement. Parity among the three branches has been reduced, and common sense has been violated, since, logically, the criminal status of a willful, material false statement shouldn't depend upon which branch of the Federal Government received it.

The bill we are introducing today would restore parity by amending section 1001 to make it clear that its prohibition against willful, material false statements applies to all three branches. The bill would essentially restore the status quo prior to Hubbard, including maintaining the longstanding exception for statements made to courts adjudicating disputes to ensure vigorous advocacy in the courtroom.

The false statements prohibition in section 1001 has proven itself a useful weapon against fraud, financial deception and other abuses that affect all three branches of Government. The Supreme Court gave no reason for reducing its usefulness, other than the Court's commitment to relying on the express words of the statute itself. Our bill would change those words to clarify Congress' intent to apply the same prohibition against willful, material false statements to all three branches.

Our bill would also correct a second court decision that has weakened longstanding criminal prohibitions against making false statements to Congress. The 50-year-old statute at issue here is 18 U.S.C. 1505 which prohibits persons from corruptly obstructing a congressional inquiry.

In 1991, in a dramatic departure from other circuits, the D.C. Circuit Court of Appeals held in United States versus Poindexter that the statute's use of the term ''corruptly'' was unconstitutionally vague and failed to provide clear notice that it prohibited an individual's lying to Congress. The Court held that, at most, the statute only prohibited a person from inducing another person to lie or otherwise obstruct a congressional inquiry; it did not prohibit a person from personally lying or obstructing Congress.

No other Federal circuit has taken this approach. In fact, other circuits have interpreted ''corruptly'' to prohibit false or misleading statements not only in section 1505, but in other Federal obstruction statutes as well, including section 1503 which prohibits obstructing a Federal grand jury. These circuits have interpreted the Federal obstruction statutes to prohibit not only false statements, but also withholding, concealing, altering or destroying documents.

The bill we are introducing today would affirm the interpretations of these other circuits by defining ''corruptly'' to mean ''acting with an improper purpose, personally or by influencing another to act, including, but not limited to, making a false or misleading statement, or withholding, concealing, altering, or destroying a document or other information.''

This definition would make it clear that section 1505 is intended to prohibit the obstruction of a congressional inquiry by a person acting alone as well as when inducing another to act. It would make it clear that this prohibition bars a person from making false or misleading statements to Congress and from withholding, concealing, altering or destroying documents requested by Congress.

Our bill would make clear the conduct that section 1505 was always meant to prohibit. It would also ensure that the prohibition against obstructing Congress is given an interpretation that is consistent with the obstruction statutes that apply to the other two branches of government.

Because congressional obstruction prosecutions are more likely within the District of Columbia than other jurisdictions, the 1991 D.C. Circuit Court ruling has had a disproportionate impact on the usefulness of 18 U.S.C. 1505 to Federal prosecutors. As with Hubbard, this court ruling has led to the dismissal of charges and the limitation of prosecutorial options. It is time to restore the strength and usefulness of the congressional obstruction statute as well as its parity with other obstruction statutes protecting the integrity of Federal investigations.

The final two sections of the bill clarify the ability of Congress to compel truthful testimony. Both provisions are taken from a 1988 bill, S. 2350, sponsored by then-Senator Rudman and cosponsored by Senator INOUYE. This bill passed the Senate, but not the House. The problems it addressed, however, continue to exist.

The first problem involves enforcing Senate subpoenas to compel testimony or documents. The Senate currently has explicit statutory authority, under 28 U.S.C. 1365, to obtain court enforcement of subpoenas issued to private individuals and State officials. This enforcement authority does not apply, however, to a Senate subpoena issued to a federal official acting in an official capacity, presumably to keep political disputes between the legislative and executive branches out of the courtroom. The problem here has been to determine when a subpoenaed official is acting in an official capacity when resisting compliance with a Senate subpoena.

The Specter-Levin bill would cure this problem by exempting from enforcement only those situations where Federal officials have been directed by their agency heads to exert a government privilege and resist compliance with the subpoena. Any official resisting a subpoena without direction from his or her agency head would be deemed acting outside his or her official capacity and would be subject to court enforcement.

The second problem involves compelling testimony from individuals who have been given immunity from criminal prosecution by Congress. In the past, some individuals granted immunity have refused to provide testimony in any setting other than a congressional hearing, because the relevant statute, 18 U.S.C. 6005, is limited to appearances ''before'' a committee, while the comparable judicial immunity statute, 18 U.S.C. 6003, applies to appearances ''before or ancillary to'' court and grand jury proceedings.

The bill would reword the congressional immunity statute to parallel the judicial immunity statute, and make it clear that Congress can grant immunity and compel testimony not only in committee hearings, but also in depositions conducted by committee members or committee staff. This provision, like the proceeding one, would improve the Senate's ability to compel truthful testimony and obtain requested documents. It would also bring greater consistency across the government in how immunized witnesses may be questioned. Again, both provisions were passed the Senate by unanimous consent once before.

Provisions to bar false statements and compel truthful testimony have been on the Federal statute books for 40 years or more. Recent court decisions and events have eroded the usefulness of some of these provisions as they apply to the courts and Congress. The bill before you is a bipartisan effort to redress some of the imbalances

that have arisen among the branches in these areas. I urge you to join Senator SPECTER, myself, and our cosponsors in supporting swift passage of this important legislation.●

By Mr. PRESSLER (for himself, Mr. BRYAN, Mr. WARNER, Mr. BURNS, Mr. STEVENS, Mr. HOLLINGS, Mr. INOUYE, Mr. FORD, Mr. KERRY, Mr. BREAUX, Mr. DORGAN, Mr. AKAKA, Mr. COVERDELL, and Mr. JOHNSTON):

S. 1735. A bill to establish the U.S. Tourism Organization as a nongovernmental entity for the purpose of promoting tourism in the United States; to the Committee on Commerce, Science, and Transportation.

THE U.S. TOURISM ORGANIZATION ACT

Mr. PRESSLER. Mr. President, the travel and tourism industry is the second most productive in the world. In the United States, the tourism industry employs more than 6.3 million people—making it the second largest employer in the country.

Unfortunately, the United States is no longer the No. 1 tourist destination. As other nations have recognized the economic potential of tourism, the United States has allowed itself to fall behind. We must reverse this trend.

This week we celebrate National Tourism Week. To commemorate the important contributions of this great industry, I am introducing a bill to stimulate U.S. tourism. I plan to make it a major priority, as chairman of the Committee on Commerce, Science, and Transportation—and as cochair of the Senate Tourism Caucus—and as the Senator from one of the finest tourist destinations on Earth. My bill gives Federal charter to a new U.S. Tourism Organization—a nonprofit, nongovernmental group to promote U.S. tourism, both in this country and abroad.

Mr. President, this organization would be put together entirely through private-sector initiatives. It is designed as a public-private partnership—not an expensive new Government program. My bill would allow the U.S. Tourism Organization to raise funds through the development and sale of a tourism logo or emblem—much as is done today by the U.S. Olympic Committee. In addition, for an annual fee, American businesses could become members of the U.S. Tourism Organization. Membership would allow use of the logo for advertising and promotional efforts. Not only would this boost individual businesses, it also would advance the tourism industry as a whole.

My bill also would implement a national tourism strategy so that the United States can once again be the No. 1 tourist destination in the world. This is of critical importance to places like my home State of South Dakota.

In South Dakota, we depend upon our average tourism revenues of $1.24 billion. In fact, tourism is second only to agriculture as the most lucrative industry in South Dakota.

Ask anyone in Washington and they will tell you I am South Dakota's No. 1 travel agent.

Whether it is Sturgis Motorcycle Rally, where I enjoy riding my Harley Davidson Softtail, a trip to Laura Ingalls Wilder's home in DeSmet, or the Prairie Dog Hunt in Winner—I am always looking for ways to promote South Dakota as a tourist destination.

Incidentally, I was able to ride my Harley in the beautiful Black Hills of South Dakota this weekend. I am leading a group of 600 motorcyclists there in 2 weeks. The Sturgis bike rally is one of the major events in the Nation—South Dakota really is a major tourist destination.

Visitors to my Washington office frequently ask about the beautiful panorama of Mount Rushmore which hangs in my reception area. Set in the heart of the Black Hills National Forest, the memorial is a shrine of American Presidential heroes: George Washington, Father of the Nation; Thomas Jefferson, author of the Declaration of Independence; Theodore Roosevelt, conservationist and trustbuster; and Abraham Lincoln, the great emancipator and preserver of the Union. More than 65 years after its conception, Mount Rushmore is still one of the most powerful symbols of America's democracy.

In my office, I also have a sign letting guests know that the infamous Wall Drug in Wall, SD is only 1,523 miles away. The store survived the Great Depression by serving free ice water to travelers. Today, Wall Drug boasts a restaurant, art gallery, gift shops, and of course, the drug store that started it all. I might add, the ice water is still free.

As part of my more official efforts, I recently wrote to every foreign ambassador in Washington encouraging them to promote South Dakota as a tourist destination. Not long after receiving my letter, the Ambassador from Austria visited South Dakota. I understand he enjoyed his visit very much. Foreign visitors are becoming our fastest growing tourist population. We welcome them.

The bill I am introducing today is designed to make it easier for foreign visitors to plan a trip to South Dakota. Among the many duties of the U.S. Tourist Organization is the development of a national travel and tourism strategy aimed at increasing foreign tourism in the United States.

I want the organization to aim at high technology. Earlier this year we passed the Telecommunications Act of 1996. This new law will unleash whole generations of communications technology. When I introduced the bill that became that law, I said the technology it would spur would benefit a wide variety of industries. This is a prime example. With technologies such as the World Wide Web, information on U.S. tourism can be made available to all corners of the globe.

Austrians could learn about the world-class Shrine to Music Museum in Vermillion. Kenyan safari hunters would be able find out when hunting season is in Redfield—the Pheasant Capital of the world. Dogsledders in the Yukon may want to try out the snowmobile trails of the Black Hills National Forest.

The use of the latest developments in communications technology could promote destinations like the city of Deadwood—one of the fastest growing tourist destinations in South Dakota. Deadwood's Main Street is lined with old-fashioned saloons and gaming halls—inspiring memories of the 1890's gold rush. You can still visit Saloon No. 10 where Wild Bill Hickock was shot—making famous his poker hand of aces and eights, the Deadman's hand.

Other legendary sites in South Dakota also would benefit. Near Garretson, SD lies Devil's Gulch—a deep rocky chasm, made famous by Jesse James. As you stand and look across Devil's Gulch, you can almost imagine Jesse's cry when, being chased by the law, he spurred his horse to leap across the 20-foot wide, 50-foot deep chasm and rode to freedom.

Of course, once the destination is decided, visitors would want to book accommodations, and arrange transportation and tour guides. However, in South Dakota, we have many small businesses which might not have the advertising budgets of the larger tours and resorts.

My bill is designed to promote all U.S. tourism interests—including both large and small business operations. To ensure this, the U.S. Tourism Organization would have a National Tourism Board, with 45 members, each representing a different aspect of the travel and tourism industry—from transportation, to accommodations, from dining and entertainment, to tour guides.

This provision would be particularly helpful to small business owners in South Dakota like Al Johnson who runs the Palmer Gulch Resort near Hill City. Or for Alfred Mueller, owner of Al's Oasis in Chamberlain—the famous home of the buffaloburger.

The U.S. Tourism Organization would partner the Federal Government with the men and women who are the tourism industry. This type of public-private partnership was discussed by South Dakotans like Vince Coyle, of Deadwood, and Julie Jensen, of Rapid City, when they attended the White House conference on tourism. Working together, we can make tourism the new key to this country's economic success.

This is our opportunity to forge ahead. There is no reason the U.S. travel and tourism should be relegated to the backseat any longer. I urge my colleagues to join me in the effort to once again make the United States the top tourist destination in the world.

With that, Mr. President, I send to the desk a bill to establish the U.S. Tourism Organization as a nongovernmental entity for the purpose of promoting tourism in the United States.

Mr. President, I see my colleague, Senator WARNER of Virginia, on the floor.

He is a champion of tourism. He has been a leader in the tourism industry since we came to the Senate together in 1978. I am proud he is joining in this effort to lead the charge to work for this bill's passage. We know that in the Department of Commerce and especially in the Undersecretary for Tourism's office there have been cutbacks. But this provides us with a vehicle to accomplish our goal to promote tourism, a vehicle of using public-private partnership. This is the spirit and the genius of free enterprise in our country. Senator WARNER has been at the forefront of that legislation, and I salute him, and I welcome him to help lead this charge.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, and I yield the floor to my friend from Virginia.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1735

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''United States Tourism Organization Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States, and travel and tourism services ranked as the largest United States export in 1995, generating an $18.6 billion trade surplus for the United States;

(2) domestic and international travel and tourism expenditures totaled $433 billion in 1995, $415 billion spent directly within the United States and an additional $18 billion spent by international travelers on United States flag carriers traveling to the United States;

(3) direct travel and tourism receipts make up 6 percent of the United States gross domestic product;

(4) in 1994 the travel and tourism industry was the nation's second largest employer, directly responsible for 6.3 million jobs and indirectly responsible for another 8 million jobs;

(5) employment in major sectors of the travel industry is expected to increase 35 percent by the year 2005;

(6) 99.7 percent of travel businesses are defined by the federal government as small businesses; and

(7) the White House Conference on Travel and Tourism in 1995 brought together 1,700 travel and tourism industry executives from across the nation and called for the establishment, by federal charter, of a new national tourism organization to promote international tourism to all parts of the United States.

SEC. 3. UNITED STATES TOURISM ORGANIZATION.

(a) ESTABLISHMENT.—There is established with a Federal charter, the United States Tourism Organization (hereafter in this Act referred to as the ''Organization''). The Organization shall be a nonprofit organization. The Organization shall maintain its principal offices and national headquarters in the city of Washington, District of Columbia, and may hold its annual and special meetings in such places as the Organization shall determine.

(b) ORGANIZATION NOT A FEDERAL AGENCY.—Notwithstanding any other provision of the law, the Organization shall not be considered a Federal agency for the purposes of civil service laws or any other provision of Federal law governing the operation of Federal agencies, including personnel or budgetary matters relating to Federal agencies. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Organization or any entities within the Organization.

(c) DUTIES.—The Organization shall—

(1) facilitate the development and use of public-private partnerships for travel and tourism policymaking;

(2) seek to, and work for, an increase in the share of the United States in the global tourism market;

(3) implement the national travel and tourism strategy developed by the National Tourism Board under section 4;

(4) operate travel and tourism promotion programs outside the United States in partnership with the travel and tourism industry in the United States;

(5) establish a travel-tourism data bank and, through that data bank collect and disseminate international market data:

(6) conduct market research necessary for the effective promotion of the travel and tourism market; and

(7) promote United States travel and tourism.

(d) POWERS.—The Organization—

(1) shall have perpetual succession;

(2) shall represent the United States in its relations with international tourism agencies;

(3) may sue and be sued;

(4) may make contracts;

(5) may acquire, hold, and dispose of real and personal property as may be necessary for its corporate purposes;

(6) may accept gifts, legacies, and devices in furtherance of its corporate purposes;

(7) may provide financial assistance to any organization or association, other than a corporation organized for profit, in furtherance of the purpose of the corporation;

(8) may adopt and alter a corporate seal;

(9) may establish and maintain offices for the conduct of the affairs of the Organization;

(10) may publish a newspaper, magazine, or other publication consistent with its corporate purposes;

(11) may do any and all acts and things necessary and proper to carry out the purposes of the Organization; and

(12) may adopt and amend a constitution and bylaws not inconsistent with the laws of the United States or of any State, except that the Organization may amend its constitution only if it—

(A) publishes in its principal publication a general notice of the proposed alteration of the constitution, including the substantive terms of the alteration, the time and place of the Organization's regular meeting at which the alteration is to be decided, and a provision informing interested persons that they may submit materials as authorized in subparagraph (B); and

(B) gives to all interested persons, prior to the adoption of any amendment, an opportunity to submit written data, views, or arguments concerning the proposed amendment for a period of at least 60 days after the date of publication of the notice.

(e) NONPOLITICAL NATURE OF THE ORGANIZATION.—The Organization shall be nonpolitical and shall not promote the candidacy of any person seeking public office.

(f) PROHIBITION AGAINST ISSUANCE OF STOCK OR BUSINESS ACTIVITIES.—The Organization shall have no power to issue capital stock or to engage in business for pecuniary profit or gain.

SEC. 4. NATIONAL TOURISM BOARD.

(a) ESTABLISHMENT.—The Organization shall be governed by a Board of Directors known as the National Tourism Board (hereinafter in this Act referred to as the ''Board'').

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Board shall be composed of 45 members, and shall be self-perpetuating. Initial members shall be appointed as provided in paragraph (2). The Board shall elect a chair from among its members.

(2) FOUNDING MEMBERS.—The founding members of the Board shall be appointed, or elected, as follows:

(A) The Under Secretary of Commerce for International Trade Administration shall serve as a member ex officio.

(B) 5 State Travel Directors elected by the National Council of State Travel Directors.

(C) 5 members elected by the International Association of Convention and Visitor Bureaus.

(D) 3 members elected by the Air Transport Assocation.

(E) 1 member elected by the National Assocation of Recreational Vehicle Parks and Campgrounds; 1 member elected by the Recreation Vehicle Industry Association.

(F) 2 members elected by the International Association of Amusement Parks and Attractions.

(G) 3 members appointed by major companies in the travel payments industry.

(H) 5 members elected by the American Hotel and Motel Association.

(I) 2 members elected by the American Car Rental Association; 1 member elected by the American Automobile Association; 1 member elected by the American Bus Association; 1 member elected by Amtrak.

(J) 1 member elected by the National Tour Association; 1 member elected by the United States Tour Operators Association.

(K) 1 member elected by the Cruise Lines International Association; 1 member elected by the National Restaurant Association; 1 member elected by the National Park Hospitality Association; 1 member elected by the Airports Council International; 1 member elected by the Meeting Planners International; 1 member elected by the American Sightseeing International; 4 members elected by the Travel Industry Association of America.

(3) TERMS.—Terms of Board members and of the Chair shall be determined by the Board and made part of the Organization bylaws.

(c) DUTIES OF THE BOARD.—The Board shall—

(1) develop a national travel and tourism strategy for increasing tourism to and within the United States; and

(2) advise the President, the Congress, and members of the travel and tourism industry concerning the implementation of the national strategy referred to in paragraph (1) and other matters that affect travel and tourism.

(d) AUTHORITY.—The Board is hereby authorized to meet to complete the organization of the Organization by the adoption of a constitution and bylaws, and by doing all things necessary to carry into effect the provisions of this Act.

(e) INITIAL MEETINGS.—Not later than 30 days after the date on which all members of the Board have been appointed, the Board shall have its first meeting.

(f) MEETINGS.—The Board shall meet at the call of the Chair, but not less frequently than semiannually.

(g) COMPENSATION AND EXPENSES.—The chairman and members of the Board shall

serve without compensation but may be compensated for expenses incurred in carrying out the duties of the Board.

(h) TESTIMONY, REPORTS, AND SUPPORT.—The Board may present testimony to the President, to the Congress, and to the legislatures of the State and issue reports on its findings and recommendations.

SEC. 5. SYMBOLS, EMBLEMS, TRADEMARKS, AND NAMES.

(a) IN GENERAL.—The Organization shall provide for the design of such symbols, emblems, trademarks, and names as may be appropriate and shall take all action necessary to protect and regulate the use of such symbols, emblems, trademark, and names under law.

(b) UNAUTHORIZED USE; CIVIL ACTION.—Any person who, without the consent of the Organization, uses—

(1) the symbol of the Organization;

(2) the emblem of the Organization;

(3) any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the Organization; or

(4) the words ''United States Tourism Organization'', or any combination or simulation thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection with the Organization or any Organization activity;

for the purpose of trade, to induce the sale of any goods or services, or to promote any exhibition shall be subject to suit in a civil action brought in the appropriate court by the Organization for the remedies provided in the Act of July 5, 1946 (60 Stat. 427; 15 U.S.C. 1501 et seq.), popularly known as the Trademark Act of 1946. Paragraph (4) of this subsection shall not be construed to prohibit any person who, before the date of enactment of this Act, actually used the words ''United States Tourism Organization'' for any lawful purpose from continuing such lawful use for the same purpose and for the same goods and services.

(c) CONTRIBUTORS AND SUPPLIERS.—The Organization may authorize contributors and suppliers of goods and services to use the trade name of the Organization as well as any trademark, symbol, insignia, or emblem of the Organization in advertising that the contributions, goods, or services were donated, supplied, or furnished to or for the use of, approved, selected, or used by the Organization.

(d) EXCLUSIVE RIGHT OF THE ORGANIZATION.—The Organization shall have exclusive right to use the name ''United States Tourism Organization'', the symbol described in subsection (b)(1), the emblem described in subsection (b)(2), and the words ''United States Tourism Organization'', or any combination thereof, subject to the use reserved by the second sentence of subsection (b).

SEC. 6. UNITED STATES GOVERNMENT COOPERATION.

(a) SECRETARY OF STATE.—The Secretary of State shall—

(1) place a high priority on implementing recommendations by the Organization; and

(2) cooperate with the Organization in carrying out its duties.

(b) DIRECTOR OF THE UNITED STATES INFORMATION AGENCY.—The Director of the United States Information Agency shall—

(1) place a high priority on implementing recommendations by the Organization; and

(2) cooperate with the Organization in carrying out its duties.

(c) TRADE PROMOTION COORDINATING COMMITTEE.—Section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727) is amended—

(1) by striking out ''and'' at the end of subsection (c)(4);

(2) by striking the period at the end of subsection (c)(5) and inserting a semicolon and the word ''and'';

(3) by adding at the end thereof the following:

''(6) reflect recommendations by the National Tourism Board established under the United States Tourism Organization Act.'' and

(2) in paragraph (d)(1) by striking ''and'' in subparagraph (L), by redesignating subparagraph (M) as subparagraph (N), and by inserting the following:

''(M) the Chairman of the Board of the United States Tourism Organization, as established under the United States Tourism Organization Act; and''.

SEC. 7. SUNSET.

If, by the date that is 2 years after the date of incorporation of the Organization, a plan for the long-term financing of the Organization has not been implemented, the Organization and the Board shall terminate.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished colleague from South Dakota for his kind remarks. Indeed, I had earlier this year, in March, introduced S. 1623, a bill which in many respects has been incorporated, with my concurrence, in the bill that has just been sent to the desk, on which I am a principal cosponsor, as the Senator from South Dakota stated.

The Senator from South Dakota is the chairman of the Commerce Committee, which is the committee of primary jurisdiction for this issue. I think it is most proper that he take the lead, and I am happy to join him. I at this time urge that the 19 cosponsors—I was privileged to get 19 cosponsors on my bill—now direct their attention to this bill which will be the principal focal point for the deliberations in the committee as well as in this Chamber regarding this important subject.

It is very interesting that it is just 20 years ago that I began to take my, should we say, initial course in the importance of tourism. At that time, I was privileged to serve the President of the United States and, indeed, the Congress as the director of the Nation's bicentennial Federal effort. It quickly came to my attention, as it did to all involved in the bicentennial of the United States, that it would be a focal point that would draw visitors from all over the world. Indeed, it did. Millions and millions of people came from all over the world. In the years thereafter, those who could not come during, let us say, the years 1975–76, which was sort of the peak of the centennial—July 4, 1976, was the focal point—came years after because of the goodwill, the interest that was created by that celebration here in the United States.

It was my role to see that each of the States had equal opportunity, each of the villages and towns all across America had an equal opportunity to participate. If I may say, I was proud to, in many respects, keep the Federal effort down so it was not competitive with the creativity that took place all across our great land and also saved the taxpayers' dollars.

I might add that there was a small Federal administration created of which I was the head. We did our job, closed our doors and turned back to the Federal Treasury a considerable portion of the revenue that we had generated primarily through the sale of coins and other items with the national logo affixed thereto.

In the years I have been privileged to serve in the Senate, time and time again—indeed, initiated under Republican Presidents—was the effort to cut back the participation of the United States in facilitating tourism here in the United States with visitors from abroad. I resisted those efforts successfully for a number of years, but now, in this important era of our change of philosophy, namely, to let us move towards less Government and less Government spending, we accept the fact that the Federal Government is going to take a lesser role, and the purpose of this act is to try to pick up some of those responsibilities by the private sector at no cost to the taxpayers.

Therefore, I think it is important that all begin to give greater focus to travel and tourism in our Nation. Tourism means jobs, and that is the single most important thing in America today, in my judgment. As I travel about my State, there is the anxiety over jobs. It is job security that concerns not just the wage earner, or, in many instances, two wage earners in the family, but the whole family right on down to the children.

This is a means to create superb quality jobs at all levels, and it needs our support. Whether it be at the hotels, airlines, restaurants, campgrounds, amusement parks, or things that interest me and always have, the historical sites all across our great land, tourism works, and it works well.

Today marks National Tourist Appreciation Day during National Tourism Week. It is a small tribute to this job-impacted industry, which is the second leading provider of jobs in this Nation—just stop to think, the second leading provider of jobs in this country—and the third largest retail industry, giving the United States a $21 billion trade surplus.

Last year, visitors from abroad brought approximately $80 billion—let me repeat that—last year visitors coming to our United States from all over the world brought $80 billion to the U.S. economy, which is one-fifth of the total $400 billion provided to the economy by the travel and tourism industry.

Mr. PRESSLER. Will my friend yield for a question?

Mr. WARNER. Yes.

Mr. PRESSLER. I again commend my friend from Virginia for his great leadership. I think he found, in getting cosponsors for his original bill, there is bipartisan support for this. And I see our friend, Senator DICK BRYAN, who has done such an outstanding job on tourism and travel matters on his side of the aisle. He also has led the charge on tourism and supports this bill. Is it not true that my friend found great bipartisan support?

Mr. WARNER. Mr. President, very definitely. It is absolutely bipartisan support on this measure, and that is why I am very much encouraged that this bill will be very promptly addressed by the Senate and passed.

I hasten to add that while we got $80 billion last year, it is slipping. The number of persons coming to our shores is going down, going down, in my judgment, because we do not have the adequate funds to project the message beyond our shores—come, come share with us in this magnificent land of ours. And that is the purpose of this bill.

For the past several years, the United States' share of the international travel market has declined. Last year, 2 million fewer foreign visitors came to our shores and to visit our land. That was a 19-percent decline. This translated into 177,000 fewer travel-related jobs in our Nation.

Let us join in this legislation to reverse this decline. We need to attract more international tourists and enhance the travel experience of both domestic and international travelers. The United States must remain the destination of choice for world travelers.

I am pleased to join with my colleague from South Dakota in introducing the United States Tourism Organization Act. The bill builds on the foundation of support in Congress and in the industry established by S. 1623, the measure that I introduced in March, the Travel and Tourism Partnership Act. With the elimination of the U.S. Travel and Tourism Administration—that is the Federal role, which understandably, as Government shrinks, can no longer serve in this purpose—the United States, our Nation, will become the only major developed nation without a Federal tourism office.

We need a national strategy to maintain and increase our share of the global travel market. Other nations pour money, their tax dollars, into marketing, attempting to lure tourists to their shores, and they are doing so in a way that is taking them away from our United States. Our legislation will provide the tools with which the United States can better compete with these nations. We can counter these foreign promotion dollars with a combination of technical assistance from the Federal Government and financial assistance from the private sector.

This legislation will create a true public-private partnership between the travel and tourism industry and the public sector to effectively promote international travel to the United States. It supplants the big Government, top-down bureaucracy which was eliminated with the U.S. Travel and Tourism Administration. This bill establishes a Federal charter for a privately funded, nonprofit organization tasked with facilitating the development of increasing the United States share of the global tourism market. The travel tourism data bank will collect international market data for dissemination to the travel and tourism industry. It is my hope that the final bill will incorporate the technical assistance provisions that we included in S. 1623. The U.S. Tourism Organization will represent the United States in its relations with world tourism, and with other international agencies, and will be governed by the national tourism board.

This bill does not cost the taxpayer a nickel. No Federal funding is associated with the legislation. The bill includes a sunset provision which directs the U.S. Tourism Organization to develop a long-term financing plan within 2 years, encouraging ongoing industry support for its promotion efforts.

Travel industry leaders from around the Nation enthusiastically endorse the plan embodied in this bill. Let me just pause on that. This bill is a direct result of tremendous support all across the tourism industry. So it is a joint effort at the very inception with those of us in the legislative branch and those in the private sector.

The White House Conference on Travel and Tourism supported this amendment. Together, through the collective talent of both the organization and the board of directors, it is my hope that America will once again launch itself into the international tourism market and be a strong competitor, as it has been in years previously, again creating jobs here in our United States.

I encourage all 19 of my colleagues who supported S. 1623, the Travel and Tourism Partnership Act, which I introduced in March, to join in this initiative.

The Senator from South Dakota extolled, quite properly, the virtues of his State. I will not take time here today to extol the virtues of Virginia. But we are proud to be known as the Mother of Presidents. So much of the early history of our Nation, particularly the formation of the Government, devolved upon Virginians, to bring forth the ideas that we cherish today. Indeed, the very manual that rests on the President's desk is derivative of Mr. Jefferson's teachings years ago.

So Virginia will take second place to none. But I think in fairness we are here today to concentrate on this legislation. Indeed, our Governor, with the help of his lovely wife, is spending a great deal of time on the subject of tourism today, recognizing how important it is to the economy of our State. But it is also important that our State be understood all across America, particularly in the educational process, as to how it had a major role in the development of our Government today.

Mr. President, I yield the floor. I commend the distinguished Senator about to speak for his participation in this bill, Senator BRYAN.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nevada.

Mr. BRYAN. Mr. President, I thank my friend, the distinguished senior Senator from Virginia, Mr. WARNER, and the committee chairman, Senator PRESSLER, Senator HOLLINGS, Senator INOUYE, Senator FORD, Senator KERRY, Senator BREAUX, Senator DORGAN, Senator AKAKA, and Senator JOHNSTON for their leadership in introducing this bill which is the United States Tourism Organization Act.

Let me say, parenthetically, I hail from a State where tourism is far and above our largest single economic industry. It is the mainstream, the main spring for an economy which has grown more rapidly than any economy in America, added more new jobs, enjoys more economic growth and vitality. The southern part of the State, Las Vegas, will soon have 100,000 hotel rooms. That is larger than any city, not only in America, but in the world. And several new properties are on the drawing boards.

So tourism is something we understand in Nevada. From my former capacity as the chief executive of Nevada, I know that we work at the State level to establish the public-private partnership that my colleagues have alluded to earlier this afternoon in their remarks on the floor. So I am delighted to work with them in fashioning this piece of legislation.

Travel and tourism has been one of our country's great success stories. Tourism is the second largest employer in our Nation after health care. It employs, either directly or indirectly, 13 million Americans and has created jobs at more than twice the national average.

Travel and tourism generated $417 billion spending in 1994. International visitor spending accounted for $77 billion in foreign exchange, making it America's largest export.

Tourism generated a $22 billion net surplus in our trade balance. The opportunity that we have is ever so promising because international tourism is the most rapidly growing sector in the tourism market. By the year 2000, 4 years from now, more than 661 million people will be traveling throughout the world. That is twice as many people as traveled just a little more than a decade ago, in 1985.

Unfortunately, even as we look forward to anticipate the good news of expanded international travel, we reflect upon the fact that America's share of the world's tourism market is declining. In 1983, the United States enjoyed almost 19 percent of the world's tourism receipts. That has declined to 15.6 percent this year and is expected to shrink to 13.8 percent by the end of this decade.

The loss in the U.S. share of the world tourism market can be translated into a significant impact on our trade deficit and employment—jobs, as the distinguished Senator from Virginia pointed out. If we were able to keep our world tourism share from shrinking, we would improve our trade balance by $28 billion and increase employment in America by 370,000 persons by the year 2000.

Those are significant numbers by any measure. Very few industries can shape our economy to this extent. Until a few months ago, the Federal Government funded a tourism program effort that ranked 23d in the world in terms of dollars spent, putting the United States behind such countries as Tunisia and Malaysia. While this effort fell far short of what should have been, it was a worthwhile effort that produced tangible effects.

Under the skillful leadership of the Under Secretary of Travel and Tourism, Greg Farmer, USTTA was an effective organization and helped to create a favorable impression of our country to foreign tourists.

Although this bill enjoyed strong bipartisan support in the continuation of the agency for a transitional year, it was supported in the Senate; we had strong bipartisan support of Senator BURNS and Senator MCCONNELL. Unfortunately, in the House the action of the chairman of the House Appropriations Committee killed this minimal effort and left our country without any international tourism promotion, while at the same time our international competitors have impressive international tourism efforts, trying to entice America and other countries' citizens to visit their countries. The United States, as a result of this action, was unilaterally disarmed in the competition for international travel markets.

This was a bad decision, when we consider the great opportunities that we have to encourage visitors to this country this summer. As the distinguished occupant of the chair knows, we have, in an adjacent State to his own, the summer Olympic Games in Atlanta; an opportunity for people from around the world to stay and not only visit the Olympic Games but to see other parts of our country as well.

While the effort to continue the USTTA for the transitional year, as I have indicated, was unsuccessful—and I opposed what I considered a myopic approach—nevertheless, we do have an opportunity to recover. Last October the White House hosted the first ever White House Conference on Travel and Tourism. That conference came up with a series of recommendations from all segments of the tourism industry on how to improve our promotional efforts as a country.

Most significant was the recommendation to establish a public-private partnership for tourism promotion, and it is this legislation that traces its origins to the White House conference, generated by a broad sector of the tourism industry, that we embody in the legislation that we introduce today.

This legislation establishes, by a Federal charter, the U.S. Tourism Organization. The organization shall be nonprofit and shall implement the national travel and tourism strategy, operate travel and tourism promotion outside the United States, establish a travel and tourism data bank to collect and disseminate international market data and to conduct market research for the effective promotion of U.S. tourism.

The organization shall be governed by a board of directors which shall have 45 members and be known as the national tourism board, representing a broad and diverse cross-section of various public and private-sector tourism entities.

The tourism industry strongly supports this legislation. We are counting on them to turn this into a successful organization.

This legislation, incorporating a public-private sector partnership, is a model for how Government, industry, and labor should cooperate in promoting our national efforts. I hope we can swiftly pass this legislation and send it to the President so we can get on with our efforts to encourage more travel and tourism from abroad to the United States.

Mr. STEVENS. Mr. President, I have come to the floor today to speak briefly in support of S. 1735, a bill that will establish an independent U.S. Tourism Organization.

I am supportive, particularly, of the structure of the bill that Senator PRESSLER has put together. I want to commend him and the staff of the Commerce Committee for their hard work. They have fashioned a bill that has gotten strong bipartisan support here in the Senate.

We used the 1950 act that incorporates the U.S. Olympic Committee [USOC] as a model for this bill. That act was greatly expanded upon by the Amateur Sports Act of 1978 [ASA], and the concepts in S. 1735 draw much from the ASA.

The primary goal of the ASA was to create a strong, central authority to serve amateur athletics.

We are now creating a strong, central authority for the tourism industry, which will be called the U.S. Tourism Organization [USTO].

The USTO would have many of the same duties and powers as provided in the Amateur Sports Act for the U.S. Olympic Committee, including the authority to represent the United States internationally with respect to tourism and to adopt a constitution and bylaws. Like the U.S. Olympic Committee, the U.S. Tourism Organization would be required to be nonpolitical.

S. 1735 would specify the founding members of a board of directors for the U.S. Tourism Organization.

As with the ASA, S. 1735 would grant the USTO the authority to design appropriate symbols, emblems, trademarks, and names, and would make it a violation of the Trademark Act of 1946 for any person to use these without the consent of the USTO.

The Olympic Committee's ability to raise funds for its operations is almost entirely related to its exclusive rights under the ASA to Olympic symbols, and we hope the exclusive use of these will work as for the new USTO.

Significantly, as with the U.S. Olympic Committee, no Federal funding is associated with this legislation. This is an industry-funded and industry-directed initiative.

Supporting over 14 million jobs directly and indirectly, the travel and tourism industry is America's second largest employer. It is the third largest retail industry, generating an estimated $430 billion in expenditures. And it is good for State, local, and Federal Government, generating almost $60 billion a year in Federal, State, and local taxes.

Tourism is extremely important to my State of Alaska. Over 1 million people will visit Alaska this year; that's more visitors than there are State residents.

Tourists, both domestic and international, support 22,000 jobs in Alaska and $523 million in payroll. This year, tourists will spend $1.2 billion in my State.

I support this legislation, which would create the foundations of a strong, independent entity to promote travel and tourism in the United States. I urge my colleagues to support this bill.

By Mr. STEVENS:

S. 1736. A bill for the relief of Staff Sergeant Charles Raymond Stewart and Cynthia M. Stewart of Anchorage, Alaska, and their minor son, Jeff Christopher Stewart; to the Committee on the Judiciary.

PRIVATE RELIEF LEGISLATION

Mr. STEVENS. Mr. President, today I am introducing a private bill for a young Alaskan, Jeff Stewart. Jeff's father, Charles Stewart was a staff sergeant stationed in Germany in 1992. Jeff and his brother were playing when Jeff fell and fractured his hip. Jeff was taken to the Langstuhl Army Hospital's emergency room where an Army physician failed to diagnose his fractured hip. Jeff was sent home for bed rest. Two days later Jeff's mother took Jeff to the Air Force clinic at Ramstein Air Base because Jeff was still in intense pain. At Ramstein, Jeff was seen by an Air Force physician who also failed to diagnose his fractured hip and sent Jeff home for bed rest. Six days later Jeff's parents took him back to Ramstein where an Air Force nurse diagnosed his fractured hip.

Unfortunately, this diagnosis was too late to prevent permanent injury to Jeff. Jeff must now face a painful hip replacement operation every 7 to 10 years for the rest of his life.

My bill will not automatically compensate Jeff and his family; rather, it will allow them to bring suit in a U.S. court as they would have had a right to do if the treatment had occurred in the United States. Nor is this bill meant to infer negligence on the part of the United States or the military doctors that treated Jeff Stewart; rather it will give Jeff and his family the opportunity to explain their case to a judge

who can make the final decision as to whether or not Jeff should be compensated.

By Mr. BUMPERS:

S. 1737. A bill to protect Yellowstone National Park, the Clarks Fork of the Yellowstone National Wild and Scenic River, and the Absaroka-Beartooth Wilderness Area, and for other purposes; to the Committee on Energy and Natural Resources.

THE YELLOWSTONE PROTECTION ACT OF 1996

Mr. BUMPERS. Mr. President, I rise to introduce a bill dealing with a proposed gold, silver, and copper mine to be operated by the Crown Butte Mining Co., a wholly-owned subsidiary of two Canadian companies, 2½ miles north of Yellowstone National Park.

They also propose to construct a 72-acre impoundment area with a dam that would be somewhere between 75 and 100 feet high, which would have a plastic lining on the bottom and some sort of a cap on top to keep oxygen away from the 5.5 million tons of tailings from the mining operation that would go into this impoundment area. The purpose of keeping the oxygen away from it is to keep the waste from turning into sulfuric acid.

The President of the United States flew over this area last summer and promptly thereafter, by Executive order, withdrew 19,100 acres of land in the Gallatin and Custer National Forests in Montana.

The President has the authority to segregate public lands, subject to valid existing rights, and keep that land from being used for mining purposes for a period of 2 years. Then the Secretary of the Interior has the right, pursuant to the Federal Lands Policy Management Act, to withdraw that land for 20 years.

My bill would prevent approximately 24,000 acres of Federal land in the area from being used for mining, subject to valid existing rights. My bill admittedly cannot legally stop Crown Butte from proceeding with the mine, assuming the proposed mine meets all of the environmental requirements. My bill and the President's action before my bill are designed to discourage them and dissuade them from doing it. I hope that Crown Butte, as good corporate citizens, will not force the issue and leave us to wonder whether or not this 5.5 million tons of tailings that they propose to impound there could possibly break loose and pollute Clarks Fork and Soda Butte Creek, which flows right into Yellowstone National Park.

The American Rivers Association has listed, for the last 3 years, the Clarks Fork of the Yellowstone River as the most threatened river in America. The World Heritage Convention, which consists of more than 135 nations that collaborate on what they consider to be sites of international significance, has declared Yellowstone National Park as endangered because of the proposed mine.

All of that does not have to tell us anything. I went to Yellowstone when I was 12 years old—breathtaking. I never forgot any part of it, the geysers, the magnificent waterfalls—all of it. Here is the first national park in America, Yellowstone, a crown jewel. To allow a mining company, in the interest of extracting $500 million to $700 million worth of gold, silver and copper, to threaten to destroy the first national park in America, one of the real crown jewels of the world, not just America, is absolutely unacceptable.

From a purely philosophical standpoint, I am an unrepentant environmentalist. I have not always been, because I never fully understood it until I came to the Senate. But I have come to the conclusion that if something is going to cause a lot of economic dislocation, cost a lot of jobs, and the environmental damage is temporary and can be fully, 100 percent mitigated, there are instances when that might be acceptable. But any time you cannot conclusively show that the environmental damage you are about to do cannot be mitigated, cannot be reversed, that is a no brainer to this Senator. While Crown Butte says that their impoundment area is a state-of-the-art method of impounding these horrible, environmentally devastating tailings from that gold operation, that is a no brainer for us not to do everything we can to stop it.

The American people share many heartfelt values. None is greater than the protection of our environment. Last year, when these savage assaults on the environment were proposed, the American people were vocally opposed and 74 percent of the people said they did not want to turn the clock back on the environment.

So I hope I will attract both Democratic and Republican cosponsors to this bill, because I know the Republicans in the U.S. Senate, for the most part, are environmentalists. I know they share my concerns about the possible ecological disaster that awaits us if we do not do something to stop this mining operation from ever opening its doors so near to Yellowstone.

Mr. President, I ask unanimous consent the bill which I now send to the desk be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1737

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Yellowstone Protection Act of 1996''.

SEC. 2. FINDINGS.

(a) The Congress finds that—

(1) the superlative nature and scenic resources of the Yellowstone area led Congress in 1872 to establish Yellowstone National Park as the world's first national park;

(2) a 20.5 mile segment of the Clarks Fork of the Yellowstone River was designated in 1990 as a component of the National Wild and Scenic Rivers system, the only such designation within the State of Wyoming, in order to preserve and enhance the natural, scenic, and recreational resources of such segment;

(3) the Absaroka-Beartooth National Wilderness Area was designated in 1978 to protect the wilderness and ecological values of certain lands north and east of Yellowstone National Park;

(4) in recognition of its natural resource values and international significance, Yellowstone National Park was designated a World Heritage Site in 1978;

(5) past and ongoing mining practices have degraded the resource values of Henderson Mountain and adjacent lands upstream of Yellowstone National Park, the Absaroka-Beartooth National Wilderness Area and the Clarks Fork of the Yellowstone National Wild and Scenic River, and acid mine pollution and heavy metal contamination caused by such practices have polluted the headwater sources of Soda Butte Creek and the Lamar River, the Clarks Fork of the Yellowstone River and the Stillwater River;

(6) on September 1, 1995 approximately 19,100 acres of federal land upstream of Yellowstone National Park, the Clarks Fork of the Yellowstone National Wild and Scenic River and the Absaroka-Beartooth National Wilderness Area were segregated from entry under the general mining laws for a two-year period, in order to protect the watersheds within the drainages of the Clarks Fork of the Yellowstone River, Soda Butte Creek and the Stillwater River and to protect the water quality and fresh water fishery resources within Yellowstone National Park;

(7) because of proposed mineral development upstream of Yellowstone National Park, and other reasons, the World Heritage Committee added Yellowstone National Park to the ''List of World Heritage in Danger'' in December, 1995; and

(8) proposed mining activities in the area present a clear and present danger to the resource values of the area as well as those of Yellowstone National Park, the Clarks Fork of the Yellowstone National Wild and Scenic River and the Absaroka-Beartooth National Wilderness Area, and it is, therefore, in the public interest to protect these lands and rivers from such mining activities.

SEC. 3. PURPOSE.

The purpose of this Act is to make permanent the present temporary segregation of lands upstream of Yellowstone National Park, Absaroka-Beartooth National Wilderness Area and the Clarks Fork of the Yellowstone National Wild and Scenic River from entry under the general mining laws, restrict the use of certain federal lands, and to provide assurance that the exercise of valid existing mineral rights does not threaten the water quality, fisheries and other resource values of this area.

SEC. 4. AREA INCLUDED.

The area affected by this Act shall be comprised of approximately 24,000 acres of lands and interests in lands within the Gallatin and Custer National Forests as generally depicted on the map entitle ''Yellowstone Protection Act of 1996''. The map shall be on file and available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture, Washington, D.C.

SEC. 5. MINERALS AND MINING.

(a) WITHDRAWAL.—After enactment of this Act, and subject to valid existing rights, the lands segregated from entry under the general mining laws pursuant to the order contained on page 45732 of the Federal Register (September 1, 1995) shall not be:

(1) open to location of mining claims under the general mining laws of the United States;

(2) available for leasing under the mineral leasing and geothermal leasing laws of the United States; and

(3) available for disposal of mineral materials under the Act of July 31, 1947, commonly known as the Material Act of 1947 (30 U.S.C. 601 et seq.).

(b) LIMITATION ON PATENT ISSUANCE.—Subject to valid existing rights, no patents under the general mining laws shall be issued for any claim located in the area described in section 4.

(c) PROHIBITION.—(1) Subject to valid existing rights, no federal lands within the area described in section 4 may be used in connection with any mining related activity, except for reclamation.

(2) Subject to valid existing rights, no federal department or agency shall assist by loan, grant, license or otherwise in the development or construction of cyanide heap- or vat-leach facilities, dams or other impoundment structures for the storage of mine tailing, work camps, power plants, electrical transmission lines, gravel or rock borrow pits or mills within the area described in section 4. However, nothing in this section shall limit reclamation.

(d) RECLAMATION.—Any mining or mining related activities occurring in the area described in section 4 shall be subject to operation and reclamation requirements established by the Secretary of Agriculture, including requirements for reasonable reclamation of disturbed lands to a visual and hydrological condition as close as practical to their premining condition.

(e) MINING CLAIM VALIDITY REVIEWS.—The Secretary of Interior, in consultation with the Secretary of Agriculture, shall complete within three years of the date of enactment of this Act, a review of the validity of all claims under the general mining laws within the area described in section 4. If a claim is determined to be invalid, the claim shall be immediately declared null and void.

(f) PLANS OF OPERATION.—(1) The Secretary of Agriculture shall not approve a plan of operation for mining activities within the area described in section 4 that threatens to pollute groundwater or surface water flowing into Yellowstone National Park, the Clarks Fork of the Yellowstone National Wild and Scenic River or the Absaroka—Beartooth National Wilderness Area.

(2) Prior to granting an order approving a plan of operations for mining activities within the area described in section 4, the Secretary of Agriculture shall transmit the proposed plan of operation to the Secretary of Interior and the Administrator of the Environmental Protection Agency, and the Governors of Montana and Wyoming.

(3) Within 90 days of the date on which the proposed plan of operations is submitted for their review, the Secretary of Interior and the Administrator of the Environmental Protection Agency shall either (1) certify that the proposed plan of operation does not threaten to pollute groundwater or surface water flowing into Yellowstone National park, the Clarks Fork of the Yellowstone National Wild and Scenic River or the Absoraka-Beartooth National Wilderness Area or (2) make recommendations for any actions or conditions that would be necessary to obtain their certification that the proposed plan of operation will not threaten such pollution.

(4) The Secretary of Agriculture shall not approve a plan of operation unless (1) the Secretary of Interior and the Administrator of the Environmental Protection Agency provide the certification under subsection (f)(3) of this section or (2) the plan of operation is modified to adopt the recommendations made by them and (3) any comments submitted by the Governors of Montana and Wyoming are taken into account.

(5) The Secretary of Agriculture shall not approve a plan of operation for any mining activities within the area described in section 4 that requires the perpetual treatment of acid mine pollution of surface or groundwater resources.

(6) Prior to executing a final approval of the plan of operation, the Secretary of Agriculture shall transmit the proposed final plan to the President and Congress. The President and Congress shall have 6 months from the date of submittal to consider and review the final plan of operation, before the Secretary of Agriculture may execute any final approval of such plan.

By Mr. GRAMS:

S. 1738. A bill to provide for improved access to and use of the Boundary Waters Canoe Area Wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

THE BOUNDARY WATERS CANOE AREA WILDERNESS ACCESSIBILITY AND PARTNERSHIP ACT OF 1996

Mr. GRAMS. Mr. President, I rise today to introduce legislation designed to resolve one of the longest and most heartfelt controversies in my home State of Minnesota: the future of the Boundary Waters Canoe Area Wilderness.

In 1978, 1 million acres in northern Minnesota were designated by Congress as our Nation's only lakeland-based Federal wilderness area.

This area was named the Boundary Waters Canoe Area Wilderness, or BWCAW.

Through this Federal designation, Congress rightfully acknowledged the need to protect the tremendous ecological and recreational resources existing within the BWCAW.

At the same time, however, Congress recognized that it was to be a multiple-use wilderness area, as first envisioned by Senator Hubert Humphrey back in 1964.

When Senator Humphrey included the region now known as the boundary waters in the National Wilderness System, he made that commitment to the people of Minnesota when he said ''The Wilderness bill will not ban motorboats.''

Respected preservationist Sigurd F. Olson reiterated Senator Humphrey's pledge, saying ''Nothing in this act shall preclude the continuance within the area of already established use of motorboats.''

In fact, it is safe to say that without those commitments to the people of Minnesota, it is doubtful whether this region would be a wilderness area today.

The 1978 legislation creating the boundary waters also included commitments allowing motorized uses of select lakes and portages.

Minnesotans were to be given reasonable access to recreation in the boundary waters. The region would be preserved as a national treasure that could be enjoyed by everyone.

But as time passed, those commitments were forgotten in Washington.

Since 1978, the people of northern Minnesota have been subjected to ever-increasing U.S. Forest Service regulations in the boundary waters.

Many in the area have seen their customs, cultures and traditions uprooted by federal regulations which have shut them out of the land they call home.

Definition changes and unreasonable permit restrictions are just a few of the administrative changes that have twisted the original intent of the boundary waters legislation, making the area less accessible for the people who live there.

This 18-year history of broken promises and creeping encroachment by the Federal Government has led to a region of our State being overtaken by Washington bureaucrats, their rules and regulations, and restrictions on public access and input.

It has turned the original boundary waters law on its head and prevented many of us from enjoying the same natural resources our mothers and fathers cared for over the years.

Enough is enough.

It is time to return to the original intent of the boundary waters legislation, to give the public access to the natural resources which surround them, and to give Minnesotans a say in how their land is managed. My legislation will do just that.

The Boundary Waters Canoe Area Wilderness Accessibility and Partnership Act is designed to achieve these goals with several modest, commonsense reforms.

First, it will allow the reinstatement of three motorized portages to assist in transporting boats between five lakes in the boundary waters region.

Prior to their closing in 1993, these portages were essential in transporting many of the elderly and disabled between motorized lakes in the BWCAW.

Because of the successful efforts of environmental extremists to close down the portages, these Minnesotans have found themselves unfairly shut out from the boundary waters because of their age or disability. Under my legislation, such discrimination will no longer be tolerated.

By reopening the portages, my bill will ensure that the boundary waters will be there for the enjoyment of all who visit, not just the young and strong.

Second, it will create a new Planning and Management Council charged with developing and monitoring a comprehensive management plan. This management council will consist of 11 members appointed by the Secretary of Agriculture and will include representatives from Federal, State, local, and tribal governments.

The management council will be authorized to create advisory councils made up of individuals representing civic, business, conservation, sportsperson, and citizen organizations.

All council meetings will be open to the public, who will be given opportunities to provide comment on agenda items. Minutes will be recorded at all meetings and made available for public inspection.

Under my legislation, public input will no longer be ignored—in fact, it will be encouraged as part of the management process.

Finally, my legislation will prohibit the Forest Service from issuing any additional regulations regarding the BWCAW between enactment of the bill and final approval of the management plan, except in cases of routine administration, law enforcement need, and emergencies.

All in all, the bill I introduce today is a modest and reasonable attempt to give back to the people one of their most basic rights: the freedom to enjoy our natural resources responsibly.

It comes as the result of two public field hearings in Minnesota, 9 hours of public testimony from 32 witnesses from Minnesota, and pages of documents, data, and public feedback.

It will increase public input and participation in the management of the boundary waters, creating a partnership between the Government and the people of Minnesota. And it will ensure the protection of this national treasure for generations to come.

This legislation has been a long time coming. For nearly 20 years, the people of Minnesota have waited patiently for the Federal Government to act on their behalf. They should not have to wait any longer. We must move expeditiously to ensure that their rights—as prescribed within this measure—are no longer held hostage by overzealous regulators and administrators from Washington.

The people of northern Minnesota deserve to finally have their voices heard in the Halls of Congress. Today, we take that first step.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1738

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Boundary Waters Canoe Area Wilderness Accessibility and Partnership Act of 1996''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Boundary Waters Canoe Area Wilderness, located amidst the scenic splendor of the Minnesota-Ontario border, is and always will be a unique lakeland-based Federal wilderness unit that serves as 1 of the Nation's great natural ecosystems;

(2) the Boundary Waters Canoe Area Wilderness is a special wilderness area dedicated to appropriate public access and use through recognized motorized and nonmotorized recreational activities under protections and commitments in the Wilderness Act (16 U.S.C. 1131 et seq.) and Public Law 95–495 (92 Stat. 1649);

(3) intergovernmental cooperation that respects and emphasizes the role of State, local, and tribal governments in land management decisionmaking processes is essential to optimize the preservation and development of social, historical, cultural, and recreational resources; and

(4) the national interest is served by—

(A) improving the management and protection of the Boundary Waters Canoe Area Wilderness;

(B) allowing Federal, State, local, and tribal governments to engage in an innovative management partnership in Federal land management decisionmaking processes; and

(C) ensuring adequate public access, enjoyment, and use of the Boundary Waters Canoe Area Wilderness through nonmotorized and limited motorized means.

SEC. 3. MANAGEMENT CHANGES.

(a) USE OF MOTORBOATS.—

(1) LAC LA CROIX.—Section 4(c)(1) of Public Law 95–495 (92 Stat. 1650; 16 U.S.C. 1132 note) is amended by inserting ''Lac La Croix, Saint Louis County;'' after ''Saint Louis County;''.

(2) BASSWOOD, BIRCH, AND SAGANAGA LAKES.—Section 4(c) of Public Law 95–495 (92 Stat. 1650; 16 U.S.C. 1132 note) is amended—

(A) in paragraph (1)—

(i) by striking ''except that portion generally'' and all that follows through ''Washington Island'' and inserting ''Lake County; Birch, Lake County''; and

(ii) by striking '', except for that portion west of American Point''; and

(B) by striking paragraph (4).

(3) SEA GULL LAKE.—Section 4(c) of Public Law 95–495 (92 Stat. 1650; 16 U.S.C. 1132 note) is amended—

(A) in paragraph (2), by striking ''that portion generally east of Threemile Island,''; and

(B) in paragraph (3), by striking ''Sea Gull, Cook County, that portion generally west of Threemile Island, until January 1, 1999;''.

(b) DEFINITION OF GUEST.—The second proviso of section 4(f) of Public Law 95–495 (92 Stat. 1651; 16 U.S.C. 1132 note) is amended—

(1) by inserting ''day and overnight'' after ''lake homeowners and their'';

(2) by inserting ''who buy or rent goods and services'' after ''resort owners and their guests''; and

(3) by inserting ''or chain of lakes'' after ''shall have access to that particular lake''.

(c) MOTORIZED PORTAGES.—Section 4 of Public Law 95–495 (92 Stat. 1651; 16 U.S.C. 1132 note) is amended by striking subsection (g) and inserting the following:

''(g) MOTORIZED PORTAGES.—Nothing in this Act shall prevent the operation of motorized vehicles and associated equipment to assist in the transport of a boat across the portages from the Moose Lake chain to Basswood Lake, from Fall Lake to Basswood Lake, and from Lake Vermilion to Trout Lake.''.

SEC. 4. PLANNING AND MANAGEMENT COUNCIL.

Section 4 of Public Law 95–495 (92 Stat. 1650; 16 U.S.C. 1132 note) is amended by adding at the end the following:

''(j) PLANNING AND MANAGEMENT COUNCIL.—

''(1) ESTABLISHMENT.—There is established the Boundary Waters Canoe Area Wilderness Intergovernmental Council (referred to in this Act as the 'Council').

''(2) DUTIES OF THE COUNCIL.—The Council shall develop and monitor a comprehensive management plan for the wilderness in accordance with section 20.

''(3) MEMBERSHIP.—The Council shall be composed of 11 members, appointed by the Secretary, of whom—

''(A) 1 member shall be the Under Secretary for Natural Resources and Environment of the Department of Agriculture, or a designee;

''(B) 3 members shall be appointed, from recommendations by the Governor of Minnesota, to represent the Department of Natural Resources, the Office of Tourism, and the Environmental Quality Board, of the State of Minnesota;

''(C) 1 member shall be a commissioner from each of the counties of Lake, Cook, and Saint Louis from recommendations by each of the county board of commissioners;

''(D) 1 member shall be an elected official from the Northern Counties Land-Use Coordinating Board from recommendations by the Board;

''(E) 1 member shall be the State senator who represents the legislative district that contains a portion of the wilderness;

''(F) 1 member shall be the State representative who represents the legislative district that contains a portion of the wilderness; and

''(G) 1 member shall be an elected official of the Native American community to represent the 1854 Treaty Authority, from recommendations of the Authority.

''(4) ADVISORY COUNCILS.—

''(A) IN GENERAL.—The Council may establish 1 or more advisory councils for consultation, including councils consisting of members of conservation, sportsperson, business, professional, civic, and citizen organizations.

''(B) FUNDING.—An advisory council established under subparagraph (A) may not receive any amounts made available to carry out this Act.

''(5) QUORUM.—A majority of the members of the Council shall constitute a quorum.

''(6) CHAIRPERSON.—

''(A) ELECTION.—The members of the Council shall elect a chairperson of the Council from among the members of the Council.

''(B) TERMS.—The chairperson shall serve not more than 2 terms of 2 years each.

''(7) MEETINGS.—The Council shall meet at the call of the chairperson or a majority of the members of the Council.

''(8) STAFF AND SERVICES.—

''(A) STAFF OF THE COUNCIL.—The Council may appoint and fix the compensation of such staff as the Council considers necessary to carry out this Act.

''(B) PROCUREMENT OF TEMPORARY SERVICES.—The Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(C) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Council, on a reimbursable basis, such administrative support services as the Council requests.

''(D) PROVISION BY THE SECRETARY.—On a request by the Council, the Secretary shall provide personnel, information, and services to the Council to carry out this Act.

''(E) PROVISION BY OTHER FEDERAL DEPARTMENTS AND AGENCIES.—A Federal agency shall provide to the Council, on a reimbursable basis, such information and services as the Council requests.

''(F) PROVISION BY THE GOVERNOR.—The Governor of Minnesota may provide to the Council, on a reimbursable basis, such personnel and information as the Council may request.

''(G) SUBPOENAS.—The Council may not issue a subpoena nor exercise any subpoena authority.

''(9) PROCEDURAL MATTERS.—

''(A) GUIDELINES FOR CONDUCT OF BUSINESS.—The following guidelines apply with respect to the conduct of business at meetings of the Council:

''(i) OPEN MEETINGS.—Each meeting shall be open to the public.

''(ii) PUBLIC NOTICE.—Timely public notice of each meeting, including the time, place, and agenda of the meeting, shall be published in local newspapers and such notice may be given by such other means as will result in wide publicity.

''(iii) PUBLIC PARTICIPATION.—Interested persons shall be permitted to give oral or written statements regarding the matters on the agenda at meetings.

''(iv) MINUTES.—Minutes of each meeting shall be kept and shall contain a record of the persons present, an accurate description of all proceedings and matters discussed and conclusions reached, and copies of all statements filed.

''(v) PUBLIC INSPECTION OF RECORD.—The administrative record, including minutes required under clause (iv), of each meeting, and records or other documents that were made available to or prepared for or by the Council incident to the meeting, shall be available for public inspection and copying at a single location.

''(B) NEW INFORMATION.—At any time when the Council determines it appropriate to consider new information from a Federal or State agency or from a Council advisory body, the Council shall give full consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on management measures.

''(10) COMPENSATION.—

''(A) IN GENERAL.—A member of the Council who is not an officer or employee of the Federal government shall serve without pay.

''(B) TRAVEL EXPENSES.—While away from the home or regular place of business of the member in the performance of services for the Council, a member of the Council shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Federal Government service are allowed expenses under section 5703 of title 5, United States Code.

''(11) FUNDING.—Of amounts appropriated to the Forest Service for a fiscal year, the Secretary shall make available such amounts as the Council shall request, not to exceed $150,000 for the fiscal year.

''(12) TERMINATION OF COUNCIL.—The Council shall terminate on the date that is 10 years after the date of enactment of this subsection.''.

SEC. 5. MANAGEMENT PLAN.

Section 20 of Public Law 95–495 (92 Stat. 1659; 16 U.S.C. 1132 note) is amended to read as follows:

''SEC. 20. MANAGEMENT PLAN.

''(a) SCHEDULE.—

''(1) IN GENERAL.—Not later than 3 years after the date of enactment of this subsection, the Council shall submit to the Secretary and the Governor of Minnesota a comprehensive management plan (referred to in this section as the 'plan') for the Boundary Waters Canoe Area Wilderness, to be developed and implemented by the responsible Federal agencies, the State of Minnesota, and local political subdivisions.

''(2) PRELIMINARY REPORT.—Not later than 1 year after the date of the first meeting of the Council, the Council shall submit a preliminary report to the Secretary describing the process to be used to develop the plan.

''(b) DEVELOPMENT OF PLAN.—

''(1) IN GENERAL.—In developing the plan, the Council shall examine all relevant issues, including—

''(A) year-round visitation consistent with the use levels established under this Act, including—

''(i) reform and simplification of the current day use and overnight use permit system;

''(ii) resolving discrepancies between actual permit use and absences; and

''(iii) defining the need for special permit policies for commercial uses;

''(B) the appropriate distribution of visitors in the wilderness; and

''(C) a comprehensive visitor education program.

''(2) CONDITIONS.—In carrying out subparagraphs (A) through (C) of paragraph (1), the Council shall—

''(A) be subject to relevant environmental law;

''(B) consult on a regular basis with appropriate officials of each Federal or State agency or local government that has jurisdiction over land or water in the wilderness;

''(C) consult with interested conservation, sportsperson, business, professional, civic, and citizen organizations; and

''(D) conduct public meetings at appropriate places to provide interested persons the opportunity to comment on matters to be addressed by the plan.

''(3) PROHIBITED CONSIDERATIONS.—The Council may not consider—

''(A) removing wilderness designation;

''(B) allowing mining, logging, or commercial or residential development; or

''(C) allowing new types of motorized uses in the wilderness, except as provided in this Act.

''(c) APPROVAL OF PLAN.—

''(1) SUBMISSION TO SECRETARY AND GOVERNOR.—The Council shall submit the plan to the Secretary and the Governor of Minnesota for review.

''(2) APPROVAL OR DISAPPROVAL BY THE SECRETARY.—

''(A) REVIEW BY THE GOVERNOR.—The Governor may comment on the plan not later than 60 days after receipt of the plan from the Council.

''(B) SECRETARY.—

''(i) IN GENERAL.—The Secretary shall approve or disapprove the plan not later than 90 days after receipt of the plan from the Council.

''(ii) CRITERIA FOR REVIEW.—In reviewing the plan, the Secretary shall consider—

''(I) the adequacy of public participation;

''(II) assurances of plan implementation from State and local officials in Minnesota;

''(III) the adequacy of regulatory and financial tools that are in place to implement the plan;

''(IV) provisions of the plan for continuing oversight by the Council of implementation of the plan; and

''(V) the consistency of the plan with Federal law.

''(iii) NOTIFICATION OF DISAPPROVAL.—If the Secretary disapproves the plan, the Secretary shall, not later than 30 days after the date of disapproval, notify the Council in writing of the reasons for the disapproval and provide recommendations for revision of the plan.

''(C) REVISION AND RESUBMISSION.—Not later than 60 days after receipt of a notice of disapproval under subparagraph (B) or (D), the Council shall revise and resubmit the plan to the Secretary for review.

''(D) APPROVAL OR DISAPPROVAL OF REVISION.—The Secretary shall approve or disapprove a plan submitted under subparagraph (C) not later than 30 days after receipt of the plan from the Council.

''(d) REVIEW AND MODIFICATION OF IMPLEMENTATION OF PLAN.—The Council—

''(1) shall review and monitor the implementation of the plan; and

''(2) may, after providing for public comment and after approval by the Secretary, modify the plan, if the Council and the Secretary determine that the modification is necessary to carry out this Act.

''(e) INTERIM PROGRAM.—Before the approval of the plan, the Council shall advise and cooperate with appropriate Federal, State, local, and tribal governmental entities to minimize adverse impacts on the values described in section 2.

''(f) FOREST SERVICE REGULATIONS.—During the period beginning on the date of enactment of this subsection and ending on the date a management plan is approved by the Secretary under subsection (c)(2), the Secretary may not issue any regulation that relates to the Boundary Waters Canoe Area Wilderness, except for—

''(1) regulations required for routine business, such as issuing permits, visitor education, maintenance, and law enforcement; and

''(2) emergency regulations.

''(g) STATE AND LOCAL JURISDICTION.—Nothing in this Act diminishes, enlarges, or modifies any right of the State of Minnesota or any political subdivision of the State to—

''(1) exercise civil and criminal jurisdiction;

''(2) carry out State fish and wildlife laws in the wilderness; or

''(3) tax persons, corporations, franchises, or private property on land and water included in the wilderness.''.

By Mr. DOLE (for himself, Mr. ROTH, Mr. GRAMM, Mr. GRASSLEY, Mr. SIMPSON, Mr. PRESSLER, Mr. NICKLES, Mr. BENNETT, Mr. BOND, Mr. FAIRCLOTH, Mr. GRAMS, Mr. GREGG, Mr. KEMPTHORNE, Mr. KYL, Mr. LOTT, Mr. MACK, Mr. MCCAIN, Mr. MCCONNELL, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THURMOND, and Mr. WARNER):

S. 1739. A bill to amend the Internal Revenue Code of 1986 to repeal the 4.3-cent increase in the transportation motor fuels excise tax rates enacted by the Omnibus Budget Reconciliation Act of 1993 and dedicated to the general fund of the Treasury; to the Committee on Finance.

GAS TAX REPEAL LEGISLATION

Mr. DOLE. Mr. President, I rise today to introduce a bill that repeals the 4.3-cent gas tax increase imposed by President Clinton in his 1993 tax bill—a $265 billion increase—the largest in history.

I am confident that this legislation would pass immediately, and by a wide margin, if my Democratic colleagues would remove their objection to a vote.

As we all know, gas prices are at their highest level since the gulf war. This bill will provide much-needed tax relief to American travelers. I am happy to be joined by more than 20 of my colleagues who are cosponsoring this legislation to repeal the gas tax hike.

The 1993 tax increase raised fuel taxes on all modes of transportation by 4.3 cents per gallon. This tax increase was not dedicated to the highway trust fund to maintain and to improve our Nation's highways, roads, and bridges. Rather it was used to fund a larger and more pervasive Federal Government.

President Clinton and his Democratic colleagues would rather tax more and spend more than cut wasteful government spending. In 1993, they raised income, estate, and Social Security taxes. This $265 billion tax increase passed without a single Republican vote in either the House or the Senate.

And their taxes particularly hurt working Americans, making it harder for them to make ends meet. As we repeal the gas tax hike, 60 percent of the

tax relief would go to Americans making less than $50,000 a year—almost half of the total relief would be for families making less than $40,000 a year.

These drivers probably didn't feel rich when the President increased their taxes in 1993, but they will certainly be better off when we repeal the tax hike.

I also would note that if the President had his way, gas prices would be rising yet again—by another 2.5 cents per gallon tax that would have begun on July 1, 1996—the last installment of a 7.5-cent-per-gallon tax that was part of his overall energy tax increase proposal. Republicans fought against that increase and this bill will remove the last vestige of the 1993 gas tax increase.

This legislation does not increase the budget deficit. It is paid for by reductions in the Department of Energy administrative overhead account, which includes the Secretary's travel budget. These Energy Department cost savings were proposed by the President in his latest budget. The bill also calls for a limited auction of Federal communications spectrum. Together, these offsets raise the $2.9 billion necessary to fund the repeal through 1996. I will work for a long-term repeal in the context of our efforts to eliminate the Federal budget deficit.

Repealing the 1993 gas tax is the fastest and surest way to lower gas prices. It will provide immediate relief—especially to American families who drive to their summer vacations.

The bill provides for an immediate tax credit for service station owners and others that purchase gas for resale to customers. This way they can pass the savings on to their customers as they have told us they will.

I urge my colleagues to support this effort.

Mr. President, I ask unanimous consent that the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1739

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE.

The purpose of this Act is to repeal the 4.3-cent increase in the transportation motor fuels excise tax rates enacted by the Omnibus Budget Reconciliation Act of 1993 and dedicated to the general fund of the Treasury.

SEC. 2. REPEAL OF 4.3-CENT INCREASE IN FUEL TAX RATES ENACTED BY THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993 AND DEDICATED TO GENERAL FUND OF THE TREASURY.

(a) IN GENERAL.—Section 4081 of the Internal Revenue Code of 1986 (relating to imposition of tax on gasoline and diesel fuel) is amended by adding at the end the following new subsection:

''(f) REPEAL OF 4.3-CENT INCREASE IN FUEL TAX RATES ENACTED BY THE OMNIBUS BUDGET RECONCILIATION ACT OF 1993 AND DEDICATED TO GENERAL FUND OF THE TREASURY.—

''(1) IN GENERAL.—During the applicable period, each rate of tax referred to in paragraph (2) shall be reduced by 4.3 cents per gallon.

''(2) RATES OF TAX.—The rates of tax referred to in this paragraph are the rates of tax otherwise applicable under—

''(A) subsection (a)(2)(A) (relating to gasoline and diesel fuel),

''(B) sections 4091(b)(3)(A) and 4092(b)(2) (relating to aviation fuel),

''(C) section 4042(b)(2)(C) (relating to fuel used on inland waterways),

''(D) paragraph (1) or (2) of section 4041(a) (relating to diesel fuel and special fuels),

''(E) section 4041(c)(2) (relating to gasoline used in noncommercial aviation), and

''(F) section 4041(m)(1)(A)(i) (relating to certain methanol or ethanol fuels).

''(3) COMPARABLE TREATMENT FOR COMPRESSED NATURAL GAS.—No tax shall be imposed by section 4041(a)(3) on any sale or use during the applicable period.

''(4) COMPARABLE TREATMENT UNDER CERTAIN REFUND RULES.—In the case of fuel on which tax is imposed during the applicable period, each of the rates specified in sections 6421(f)(2)(B), 6421(f)(3)(B)(ii), 6427(b)(2)(A), 6427(l)(3)(B)(ii), and 6427(l)(4)(B) shall be reduced by 4.3 cents per gallon.

''(5) COORDINATION WITH HIGHWAY TRUST FUND DEPOSITS.—In the case of fuel on which tax is imposed during the applicable period, each of the rates specified in subparagraphs (A)(i) and (C)(i) of section 9503(f)(3) shall be reduced by 4.3 cents per gallon.

''(6) APPLICABLE PERIOD.—For purposes of this subsection, the term 'applicable period' means the period after the 6th day after the date of the enactment of this subsection and before January 1, 1997.''

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 3. FLOOR STOCK REFUNDS.

(a) IN GENERAL.—If—

(1) before the tax repeal date, tax has been imposed under section 4081 or 4091 of the Internal Revenue Code of 1986 on any liquid, and

(2) on such date such liquid is held by a dealer and has not been used and is intended for sale,

there shall be credited or refunded (without interest) to the person who paid such tax (hereafter in this section referred to as the ''taxpayer'') an amount equal to the excess of the tax paid by the taxpayer over the amount of such tax which would be imposed on such liquid had the taxable event occurred on such date.

(b) TIME FOR FILING CLAIMS.—No credit or refund shall be allowed or made under this section unless—

(1) claim therefor is filed with the Secretary of the Treasury before the date which is 6 months after the tax repeal date, and

(2) in any case where liquid is held by a dealer (other than the taxpayer) on the tax repeal date—

(A) the dealer submits a request for refund or credit to the taxpayer before the date which is 3 months after the tax repeal date, and

(B) the taxpayer has repaid or agreed to repay the amount so claimed to such dealer or has obtained the written consent of such dealer to the allowance of the credit or the making of the refund.

(c) EXCEPTION FOR FUEL HELD IN RETAIL STOCKS.—No credit or refund shall be allowed under this section with respect to any liquid in retail stocks held at the place where intended to be sold at retail.

(d) DEFINITIONS.—For purposes of this section—

(1) the terms ''dealer'' and ''held by a dealer'' have the respective meanings given to such terms by section 6412 of such Code; except that the term ''dealer'' includes a producer, and

(2) the term ''tax repeal date'' means the 7th day after the date of the enactment of this Act.

(e) CERTAIN RULES TO APPLY.—Rules similar to the rules of subsections (b) and (c) of section 6412 of such Code shall apply for purposes of this section.

SEC. 4. FLOOR STOCKS TAX.

(a) IMPOSITION OF TAX.—In the case of any liquid on which tax was imposed under section 4081 or 4091 of the Internal Revenue Code of 1986 before January 1, 1997, and which is held on such date by any person, there is hereby imposed a floor stocks tax of 4.3 cents per gallon.

(b) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(1) LIABILITY FOR TAX.—A person holding a liquid on January 1, 1997, to which the tax imposed by subsection (a) applies shall be liable for such tax.

(2) METHOD OF PAYMENT.—The tax imposed by subsection (a) shall be paid in such manner as the Secretary shall prescribe.

(3) TIME FOR PAYMENT.—The tax imposed by subsection (a) shall be paid on or before June 30, 1997.

(c) DEFINITIONS.—For purposes of this section—

(1) HELD BY A PERSON.—A liquid shall be considered as ''held by a person'' if title thereto has passed to such person (whether or not delivery to the person has been made).

(2) GASOLINE AND DIESEL FUEL.—The terms ''gasoline'' and ''diesel fuel'' have the respective meanings given such terms by section 4083 of such Code.

(3) AVIATION FUEL.—The term ''aviation fuel'' has the meaning given such term by section 4093 of such Code.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Treasury or his delegate.

(d) EXCEPTION FOR EXEMPT USES.—The tax imposed by subsection (a) shall not apply to gasoline, diesel fuel, or aviation fuel held by any person exclusively for any use to the extent a credit or refund of the tax imposed by section 4081 or 4091 of such Code is allowable for such use.

(e) EXCEPTION FOR FUEL HELD IN VEHICLE TANK.—No tax shall be imposed by subsection (a) on gasoline or diesel fuel held in the tank of a motor vehicle or motorboat.

(f) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(1) IN GENERAL.—No tax shall be imposed by subsection (a)—

(A) on gasoline held on January 1, 1997, by any person if the aggregate amount of gasoline held by such person on such date does not exceed 4,000 gallons, and

(B) on diesel fuel or aviation fuel held on such date by any person if the aggregate amount of diesel fuel or aviation fuel held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this paragraph.

(2) EXEMPT FUEL.—For purposes of paragraph (1), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by subsection (a) by reason of subsection (d) or (e).

(3) CONTROLLED GROUPS.—For purposes of this subsection—

(A) CORPORATIONS.—

(i) IN GENERAL.—All persons treated as a controlled group shall be treated as 1 person.

(ii) CONTROLLED GROUP.—The term ''controlled group'' has the meaning given to such term by subsection (a) of section 1563 of such Code; except that for such purposes the

phrase ''more than 50 percent'' shall be substituted for the phrase ''at least 80 percent'' each place it appears in such subsection.

(B) NONINCORPORATED PERSONS UNDER COMMON CONTROL.—Under regulations prescribed by the Secretary, principles similar to the principles of subparagraph (A) shall apply to a group of persons under common control where 1 or more of such persons is not a corporation.

(g) OTHER LAW APPLICABLE.—All provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of such Code in the case of gasoline and diesel fuel and section 4091 of such Code in the case of aviation fuel shall, insofar as applicable and not inconsistent with the provisions of this subsection, apply with respect to the floor stock taxes imposed by subsection (a) to the same extent as if such taxes were imposed by such section 4081 or 4091.

SEC. 5. BENEFITS OF TAX REPEAL SHOULD BE PASSED ON TO CONSUMERS.

(a) PASSTHROUGH TO CONSUMERS.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) consumers immediately receive the benefit of the repeal of the 4.3-cent increase in the transportation motor fuels excise tax rates enacted by the Omnibus Budget Reconciliation Act of 1993, and

(B) transportation motor fuels producers and other dealers take such actions as necessary to reduce transportation motor fuels prices to reflect the repeal of such tax increase, including immediate credits to customer accounts representing tax refunds allowed as credits against excise tax deposit payments under the floor stocks refund provisions of this Act.

(2) STUDY.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the repeal of the 4.3-cent increase in the fuel tax imposed by the Omnibus Budget Reconciliation of 1993 to determine whether there has been a passthrough of such repeal.

(B) REPORT.—Not later than January 31, 1997, the Comptroller General of the United States shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of the study conducted under subparagraph (A).

SEC. . AUTHORIZATION OF APPROPRIATIONS FOR EXPENSES OF ADMINISTRATION OF THE DEPARTMENT OF ENERGY.

Section 660 of the Department of energy Organization Act (42 U.S.C. 7270) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''APPROPRIATIONS''; and

(2) by adding at the end the following:

''(b) FISCAL YEARS 1997 THROUGH 2002.—There are authorized to be appropriated for salaries and expenses of the Department of Energy for departmental administration and other activities in carrying out the purposes of this Act—

''(1) $104,000,000 for fiscal year 1997;

''(2) $104,000,000 for fiscal year 1998;

''(3) $100,000,000 for fiscal year 1999;

''(4) $90,000,000 for fiscal year 2000;

''(5) $90,000,000 for fiscal year 2001; and

''(6) $90,000,000,000 for fiscal year 2002.''.

SPECTRUM AUCTION

SEC. . SPECTRUM AUCTIONS.

(a) COMMISSION OBLIGATION TO MAKE ADDITIONAL SPECTRUM AVAILABLE BY AUCTION.—

(1) IN GENERAL.—the Federal communications Commission shall complete all actions necessary to permit the assignment, by March 31, 1998, by competitive bidding pursuant to section 309(j)) of licenses for the use of bands of frequencies that—

(A) individually span not less than 12.5 megahertz, unless a combination of smaller bands can, notwithstanding the provisions of paragraph (7) of such section, reasonably be expected to produce greater receipts;

(B) in the aggregate span not less than 25 megahertz;

(C) are located below 3 gigahertz; and

(D) have not, as of the date of enactment of this Act—

(i) been assigned or designated by Commission regulation for assignment pursuant to such section;

(ii) been identified by the Secretary of Commerce pursuant to section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923); or

(iii) reserved for Federal Government use pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305).

(2) CRITERIA FOR REASSIGNMENT.—In making available bands of frequencies for competitive bidding pursuant to paragraph (1), the Commission shall—

(A) seek to promote the most efficient use of the spectrum;

(B) take into account the cost to incumbent licensees of relocating existing uses to other bands of frequencies or other means of communication;

(C) take into account the needs of public safety radio services;

(D) comply with the requirements of international agreements concerning spectrum allocations; and

(E) take into account the costs to satellite service providers that could result from multiple auctions of like spectrum internationally for global satellite systems.

(b) FEDERAL COMMUNICATIONS COMMISSION MAY NOT TREAT THIS SECTION AS CONGRESSIONAL ACTION FOR CERTAIN PURPOSES.—The Federal Communication Commission may not treat the enactment of this Act or the inclusion of this section in this Act as an expression of the intent of Congress with respect to the award of initial licenses of construction permits for Advanced Television Services, as described by the Commission in its letter of February 1, 1996, to the Chairman of the Senate Committee on Commerce, Science, and Transportation.

TECHNICAL EXPLANATION OF S. 1739

1. Repeal of Transportation Motor Fuels Excise Tax

PRESENT LAW

The Omnibus Budget Reconciliation Act of 1993 imposed a permanent 4.3-cents-per-gallon excise tax on transportation motor fuels. Revenues from this tax are retained in the General Fund of the Treasury. This excise tax applies to fuels used in all transportation sectors: highway, aviation, rail, inland waterway shipping, and recreational boating. All fuels used in those transportation sectors (gasoline, diesel fuel, special motor fuels, compressed natural gas, jet fuel, and barge fuel) are subject to tax.

Statutorily, the 4.3-cents-per-gallon transportation motor fuels excise tax is imposed as an additional component of the rates of other motor fuels excise taxes.[1] Those other excise taxes typically are imposed as a financing source for Federal environmental and public works programs administered through Federal trust funds. The other excise taxes have scheduled expiration dates, which generally coincide with expiration of authorizing legislation for those Federal programs.

EXPLANATION OF PROVISION

The bill would repeal the 4.3-cents-per-gallon General Fund transportation motor fuels excise tax on fuel used in all transportation sectors currently subject to the tax during the period beginning seven days after enactment and ending after December 31, 1996. Statutorily this is accomplished by reducing the aggregate tax rate that otherwise would be imposed by 4.3 cents per gallon, or removing the denial of an exemption. The bill does not affect any of the motor fuels excise taxes that are dedicated funding sources for Federal environmental or public works trust fund programs.

Because the 4.3-cents-per-gallon transportation motor fuels excise tax (along with other applicable excise taxes on the same motor fuels) is imposed on certain motor fuels before the fuels reach the consumer level, the bill includes rules comparable to present-law ''floor stocks refund'' provisions that allow refunds to producers and dealers for fuel held for sale on the effective date of the tax reduction when the excise tax already has been paid. These refunds must be claimed by persons liable for payment of the tax, based on amounts of tax-paid fuel they own on the tax-reduction date and on documented claims from dealers that purchased tax-paid fuel from them and hold the fuel for sale on the tax-reduction date. These refunds are intended to be allowable either as refund claims filed with the Internal Revenue Service or as credits against required deposits and payments of other excise taxes owed by the claimants.

The bill further would impose floor stocks taxes, identical to those imposed in 1993, on taxable fuels held on January 1, 1997, when the tax-reduction period expires.

EFFECTIVE DATE

These provisions of the bill would be effective on the date of enactment for taxable fuels removed, entered, sold or used more than six days after that date and before January 1, 1997.

2. Sense of the Congress on Benefit to Ultimate Consumers

The bill includes a statement that it is the Sense of the Congress that the full benefit of repeal of the 4.3-cents-per-gallon transportation motor fuels excise tax be flowed through to consumers, and that persons receiving floor stocks refunds from the Internal Revenue Service immediately credit their customers' accounts to reflect those refunds.

3. Study

The bill directs the General Accounting Office to study the impact of repeal of the 4.3-cents-per-gallon transportation motor fuels excise tax and to report its findings to the Congress no later than January 31, 1997.

By Mr. NICKLES (for himself and Mr. DOLE):

S. 1740. A bill to define and protect the institution of marriage; to the Committee on the Judiciary.

THE DEFENSE OF MARRIAGE ACT

● Mr. NICKLES. Mr. President, today I am introducing a bill called the Defense of Marriage Act. It is a simple measure, limited in scope and based on common sense. It does just two things.

The Defense of Marriage Act defines the words ''marriage'' and ''spouse'' for purposes of Federal law and allows each State to decide for itself with respect to same-sex marriages.

Most Americans will have a hard time understanding how our country has come to the point where such simple and traditional terms as ''marriage'' and ''spouse'' need to be defined

[1] Because compressed natural gas (''CNG'') is a gaseous fuel rather than a liquid, the rate of tax is stated as 48.54 cents per MCF, which was the statutory equivalent for CNG of the 4.3-cents-per-gallon tax rate enacted in 1993. The 48.54-cents-per-gallon rate is the only excise tax imposed on CNG.

in Federal law. But under challenge from courts, lawsuits and an erosion of values, we find ourselves at the point today that this legislation is needed.

This bill says that marriage is the legal union between one man and one woman as husband and wife, and spouse is a husband or wife of the opposite sex. There is nothing earth-shattering there. No breaking of new ground. No setting of new precedents. No revocation of rights.

Indeed, these provisions simply reaffirm what is already known, what is already in place, and what is already in practice from a policy perspective. This legislation seems quite unexciting yet it may still draw criticism. I do hope everyone will read and understand the scope of the legislation before drawing any conclusions.

The definitions are based on common understandings rooted in our Nation's history, our statutes and our case law. They merely reaffirm what Americans have meant for 200 years when using the words ''marriage'' and ''spouse.'' The current United States Code does not contain a definition of marriage, presumably because most Americans know what it means and never imagined challenges such as those we are facing today.

This bill does not change State law, but allows each State to decide for itself with respect to same-sex marriage. It does this by exercising Congress's powers under the Constitution to legislate with respect to the full faith and credit clause. It provides that no State shall be required to give effect to any public act of any other State respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State.

The Defense of Marriage Act is necessary for several reasons.

In May 1993, the Hawaii Supreme Court rendered a preliminary ruling in favor of three same-sex couples applying for marriage licenses. The court said the marriage law was discriminatory and violated their rights under the equal-rights clause of the State constitution.

Many States are concerned that another State's recognition of same-sex marriages will compromise their own law prohibiting such marriages. According to a March 11, 1996, Washington Times article, ''legislators in 24 States have introduced bills to deny recognition of same-sex marriage. Two States—Utah and South Dakota—have already approved such laws, and 17 other states are now grappling with the issue—including Hawaii, where legislative leaders are fighting to block their own supreme court from sanctioning such marriages.'' Several other States have passed such laws since this article was written. This bill would address this issue head on and allow States to make the final determination concerning same-sex marriages without other States' law interfering.

Another reason this bill is needed now, concerns Federal benefits. The Federal Government extends benefits, rights, and privileges to persons who are married, and generally accepts a State's definition of marriage. This bill will help the Federal Government defend its own traditional and commonsense definitions of ''marriage'' and ''spouse.'' If, for example, Hawaii gives new meaning to the words ''marriage'' and ''spouse,'' the reverberations may be felt throughout the Federal Code unless this bill is enacted.

Another example of why we need a Federal definition of the terms ''marriage'' and ''spouse'' stems from experience during debate on the Family and Medical Leave Act of 1993. Shortly before passage of this act, I attached an amendment that defined ''spouse'' as ''a husband or wife, as the case may be.'' When the Secretary of Labor published his proposed regulations, a considerable number of comments were received urging that the definition of ''spouse'' be ''broadened to include domestic partners in committed relationships, including same-sex relationships.'' When the Secretary issued the final rules he stated that the definition of ''spouse'' and the legislative history precluded such a broadening of the definition. This amendment, which was unanimously adopted, spared a great deal of costly and unnecessary litigation over the definition of spouse.

These are just a few reasons for why we need to enact the Defense of Marriage Act. Enactment of this bill will allow States to give full and fair consideration of how they wish to address the issue of same-sex marriages instead of rushing to legislate because of fear that another State's laws may be imposed upon them. It also will eliminate legal uncertainty concerning Federal benefits, and make it clear what is meant when the words ''marriage'' and ''spouse'' are used in the Federal Code.

This effort hardly seems to be news as it reaffirms current practice and policy, but surely somehow, somewhere given today's climate, it will be. I believe the fact that it will be news—that some may even consider this legislation controversial—should make the average American stop and take stock of where we are as a country and where we want to go. Apathy and indifference among the American people is one of the great threats to our Nation's future.

This legislation is important. It is about the defense of marriage as an institution and as the backbone of the American family. I urge my colleagues and fellow Americans to join me in support of the Defense of Marriage Act.

I ask unanimous consent that the following two factsheets be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE DEFENSE OF MARRIAGE ACT

The Defense of Marriage Act (DOMA) is short, and it does just two things:

It provides that no State shall be required to give effect to a law of any other State with respect to a same-sex ''marriage''.

It defines the words ''marriage'' and ''spouse'' for purposes of Federal law.

Section 1 of the bill gives its title, the ''Defense of Marriage Act''.

Section 2 allows each State (or other political jurisdiction) to decide for itself with respect to same-sex ''marriage''. Section 2 of the bill will add a new section to Title 28, United States Code, as follows:

''Sec. 1738C. Certain acts, records, and proceedings and the effect thereof

''No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship.''

This section of the bill is an exercise of Congress' powers under the ''Effect'' clause of Article IV, section 1 of the Constitution, which reads, ''Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may be general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, *and the Effect thereof.*'' [Emphasis added.]

Precedents. Congress has legislated before with respect to full faith and credit. The general provisions, 28 U.S.C. §§1738 & 1739, go back to the earliest days of the Republic. Act of May 26, 1790, 1 Statutes at Large, chap. XI. More recently, Congress has reinvigorated its powers under Article IV of the Constitution by enacting—

The Parental Kidnaping Prevention Act of 1980, Public Law 96–611, 94 Stat. 3569, codified at 28 U.S.C. §1738A (each State required to enforce child custody determinations made by home State if made consistently with the provisions of the Act);

The Full Faith and Credit for Child Support Orders Act [of 1994], Pub. L. 103–383, 108 Stat. 4064, codified at 28 U.S.C. §1738B (each State required to enforce child support orders made by the child's State if made consistently with the provisions of the Act); and

The Safe Homes for Women Act of 1994, Pub. L. 103–322, title IV, §40221(a), 108 Stat. 1930, codified at 18 U.S.C. §2265 (full faith and credit to be given to protective orders issued against a spouse or intimate partner with respect to domestic violence).

Section 3 contains definitions. It will amend Chapter 1 of Title 1 of the United States Code by adding the following new section:

''§7. Definition of 'marriage' and 'spouse'

''In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife.''

Section 3 merely restates the current understanding. The text reaffirms what Congress and the executive agencies have meant for 200 years when using the words ''marriage'' and ''spouse''—a marriage is the legal union of a man and a woman as husband and wife, and a spouse is a husband or wife of the opposite sex.

Most of section 3 borrows directly from the current United States Code. The introductory phrases are taken from sections 1 and 6 of Title 1, and the definition of spouse is taken from paragraph 31 of section 101, Title 31. The current Code does not contain a definition of marriage, presumably because Americans have known what it means.

Therefore, the definition of marriage in DOMA is derived most immediately from a Washington State case, *Singer* v. *Hara,* 522 P.2d 1187, 1191–92 (Wash. App. 1974), and this definition has now found its way into Black's Law Dictionary (6th ed. 1990). There are many similar definitions, both in the dictionaries and in the cases. For example, more than a century ago the U.S. Supreme Court spoke of the ''union for life of one man and one woman in the holy estate of matrimony.'' *Murphy* v. *Ramsey,* 114 U.S. 15, 45 (1885).

Note that ''marriage'' is defined, but the word ''spouse'' is not defined but refers to. This distinction is used because the word ''spouse'' is defined at several places in the Code to include substantive meaning (e.g., Title II of the Social Security Act, 42 U.S.C. §§416 (a), (b), & (f), contains a definition of ''spouse'' that runs to dozens of lines), and DOMA is not meant to affect such substantive definitions. DOMA is meant to ensure that whatever substantive definition of ''spouse'' may be used in Federal law, the word refers only to a person of the opposite sex.

[Prepared by the Office of Senator Don Nickles]

THE DEFENSE OF MARRIAGE ACT IS NECESSARY NOW

The Defense of Marriage Act (DOMA) is a modest proposal. In large measure, it merely restates current law. Some may ask, therefore, if it is necessary. The correct answer is . . . it's essential, and it's essential now. A couple of examples will illustrate why:

Same-Sex ''Marriages'' in Hawaii. Prompted by a decision of its State Supreme Court, *Baehr* v. *Lewin,* 852 P.2d 44, reconsideration granted in part, 875 P.2d 225 (Haw. 1993), the people of Hawaii are in the process of deciding if their State is going to sanction the legal union of persons of the same sex. After Hawaii's high court acted, the legislature amended Hawaii's law to make it unmistakably clear that marriage is available only between a man and a woman, Act of June 22, 1994 (Act 217, §3), amending Hawaii Revised Statutes §572–1, but the issue still thrives in the courts, and a lower court may hand down a decision later this year.

If Hawaii sanctions same-sex ''marriage'', the implications will be felt far beyond Hawaii. Because Article IV of the U.S. Constitution requires every State to give ''full faith and credit'' to the ''public Acts, Records, and judicial Proceedings'' of each State, the other 49 States will be faced with recognizing Hawaii's same-sex ''marriages'' even though no State now sanctions such relationships. The Federal Government will have similar concerns because it extends benefits and privileges to persons who are married, and generally it uses a State's definition of marriage.

DOMA. The Defense of Marriage Act does not affect the Hawaii situation. It does not tell Hawaii what it must do, and it does not tell the other 49 States what they must do. If Hawaii or another State decides to sanction same-sex ''marriage'', DOMA will not stand in the way.

The Defense of Marriage Act does two things: First, it allows each State to decide for itself what legal effect it will give to another State's same-sex ''marriages''. This initiative is based on Congress' power under Article IV, section 1 of the Constitution to say what ''effect'' one State's acts, records, and judicial proceedings shall have in another State. Second, DOMA defines the words ''marriage'' and ''spouse'' for purposes of Federal law. Since the word ''marriage'' appears in more than 800 sections of Federal statutes and regulations, and since the word ''spouse'' appears more than 3,100 times, a redefinition of ''marriage'' or ''spouse'' could have enormous implication for Federal law.

The following examples illustrating DOMA's importance are from Federal law, but similar situations can be found in every State.

Veterans' Benefits. In the 1970s, Richard Baker, a male, demanded increased veterans' educational benefits because he claimed James McConnell, another male, as his dependent spouse. When the Veterans Administration turned him down, he sued, and the outcome turned on a Federal statute (38 U.S.C. §103(c)) that made eligibility for the benefits contingent on his State's definition of ''spouse'' and ''marriage''. The Federal courts rejected the claim for added benefits, *McConnell* v. *Nooner,* 547 F.2d 54 (8th Cir. 1976), because the Minnesota supreme court had already determined that marriage (which it defined as ''the state of union between persons of the opposite sex'') was not available to persons of the same sex. *Baker* v. *Nelson,* 191 N.W.2d 185 (Minn. 1971), dismissed for want of a substantial federal question, 409 U.S. 810 (1972).

If Hawaii changes its law, a *Baker* v. *Nelson*-type case based on Hawaiian law will create genuine risks to the Federal Government's consistent policy. The Defense of Marriage Act anticipates future demands such as that made in the veterans' benefits case, and it reasserts that the words ''marriage'' and ''spouse'' will continue to mean what they have traditionally meant.

Family and Medical Leave Act. The Family and Medical Leave Act of 1993 (FMLA), Pub. L. 103–3, 107 Stat. 6, requires that employees be given unpaid leave to care for a ''spouse'' who is ill.

Shortly before passage of the Act in the Senate, Senator Nickles attached an amendment defining ''spouse'' as ''a husband or wife, as the case may be.'' That amendment proved essential when the regulations were written.

When the Secretary of Labor published his proposed regulations, he noted that a ''considerable number of comments'' were received urging that the definition of ''spouse'' ''be broadened to include domestic partners in committed relationships, including same-sex relationships.'' However, the Nickles amendment precluded him from adopting an expansive definition of ''spouse''. The Secretary then quoted the Senator's remarks on the floor:

''. . . This is the same definition [of 'spouse'] that appears in Title 10 of the United States Code (10 U.S.C. 101). Under this amendment, an employer would be required to give an eligible female employee unpaid leave to care for her husband and an eligible male employee unpaid leave to care for his wife. No employer would be required to grant an eligible employee unpaid leave to care for an unmarried domestic partner. This simple definition will spare us a great deal of costly and unnecessary litigation. Without this amendment, the bill would invite lawsuits by workers who unsuccessfully seek leave on the basis of the illness of their unmarried adult companions.''

''*Accordingly,*'' continued the Secretary, ''*given this legislative history, the recommendations that the definition of 'spouse' be broadened cannot be adopted.*'' 60 Federal Register 2180, 2191–92 (Jan. 6, 1995) (emphasis added).

The Family and Medical Leave Act is an excellent example of how a little anticipation in the Legislative Branch can prevent a far-reaching, even revolutionary, change in American law.

[Prepared by the Office of Senator Don Nickles]●

ADDITIONAL COSPONSORS

S. 295

At the request of Mrs. KASSEBAUM, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 295, a bill to permit labor management cooperative efforts that improve America's economic competitiveness to continue to thrive, and for other purposes.

S. 695

At the request of Mrs. KASSEBAUM, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 695, a bill to provide for the establishment of the Tallgrass Prairie National Preserve in Kansas, and for other purposes.

S. 983

At the request of Mr. FEINGOLD, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 983, a bill to reduce the number of executive branch political appointees.

S. 1035

At the request of Mr. DASCHLE, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 1035, a bill to permit an individual to be treated by a health care practitioner with any method of medical treatment such individual requests, and for other purposes.

S. 1423

At the request of Mr. GREGG, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1423, a bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes.

S. 1578

At the request of Mr. FRIST, the names of the Senator from Arizona [Mr. MCCAIN] and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of S. 1578, a bill to amend the Individuals with Disabilities Education Act to authorize appropriations for fiscal years 1997 through 2002, and for other purposes.

S. 1596

At the request of Mr. MURKOWSKI, the names of the Senator from Alaska [Mr. STEVENS], the Senator from North Carolina [Mr. FAIRCLOTH], and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of S. 1596, a bill to direct a property conveyance in the State of California.

S. 1610

At the request of Mr. BOND, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 1610, a bill to amend the Internal Revenue Code of 1986 to clarify the standards used for determining whether individuals are not employees.

S. 1623

At the request of Mr. WARNER, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1623, a bill to establish a National Tourism Board and a National Tourism Organization, and for other purposes.